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Thesis

A STUDY OF THE PROCEDURE IN THE ASSEMBLY OF
THE PROVINCE OF MASSACHUSETTS BAY;
ESPECIALLY IN ITS RELATION TO THE ROYAL
PREROGATIVE.

1692 - 1774

by

Karl Palmer Raupach
(A.B., Boston University, 1931)

submitted in partial fulfilment of the
requirements for the degree of
Master of Arts

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TABLE OF CONTENTS

INTRODUCTION.	1
Development of the Assembly.	1
the Charters of 1691 and 1725.	5
ORGANIZATION OF THE ASSEMBLY.	7
place of meeting	7
time and number of sessions.	10
elections.	21
organization for business.	32
Governor's Council.	34
LEGISLATION	57
petitions and hearings	57
committees appointed	63
bills and resolves	69
method of voting	77
instructions from constituents	81
HOUSE AND COUNCIL	94
HOUSE AND GOVERNOR.	99
points of contact.	100
disputes	104
powers of the governor	111
commissions and instructions	117
CONCLUSION.	125
BIBLIOGRAPHY.	132

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A Study of Procedure in the Assembly of
the Province of Massachusetts Bay;
Especially in its Relation to the
Royal Prerogative 1692 - 1774

INTRODUCTION

In the minds of many Americans, the growth among the English colonists in this country of the spirit of dissatisfaction with British rule dated from the close of the Seven Years' War, and the stricter observance of British colonial policy by the home government than had hitherto obtained. Investigation of the matter, however, renders the student more and more certain that the political differences that reached their consummation in the American Revolution evolved from the religious and economic difficulties which prompted the first group of intrepid pioneers to leave England and found a new commonwealth on the shores of an untrammelled wilderness. There, far removed from any central government control and virtually ignored for several generations, there grew up a new type of state, based no doubt on principles inherited from the mother country but tempered by the demands of a different environment. The frontier life was conducive to the growth of democratic ideals. Consequently a representative branch of government was the natural answer to meet the need of cooperation in a practically independent political unit.

Development of the Assembly

The development of true representative government may best be exemplified by a study of a popularly elected governing body, which represents the will of the populace, and forms the nearest approach to the "government of the people, by the people, and for the people." Such an institution, in all its stages of advancement, is the colonial assembly which sprung up in the English colonies in America. The choice of the Massachusetts assembly for consideration in the present paper is perhaps a happy one, since the assembly in that colony demonstrates well the evolution toward the overt expression of democratic principles and self-sufficiency which culminated in the American War of Independence. "In most of the colonies, this representative body had started as a rudimentary group of delegates, exercising no more power than they possessed by grant of company or proprietor, for the purpose of cooperating with the governor and council in matters of legislation."¹ During the experimental period of the seventeenth century assemblies proved their right to exist as essential to the proper organization of a royal province, and after 1689 were so recognized. When Massachusetts Bay emerged from this period, after the Revolution of 1689, it received the familiar form of government by governor, council, and assembly, checked to some degree by the terms of the Massachusetts Charter of 1691.

¹ Cambridge History of British Empire, I, 422.

The right and ability of the colonists to govern themselves efficiently, however, was challenged by the English authorities by the opening of the eighteenth century. England at last arrived at a long-delayed establishment of a definite colonial policy. Mercantilist to the core, in accordance with the economic theory of the time, the home authorities set out upon a program of binding the colonial empire more closely to England. The colonists, indignant at such a reversal of attitude by the English government which encroached upon their well-established localism, became inevitably opposed to the change. The only answer of the English authorities was a stricter application of the adopted scheme. "From this time forward every set of instructions to the governors contained specific details regarding the calling of the Assembly and its constitution and powers-- details which steadily increased in number and precision as the years passed."¹ "The process---by which the royal province was steadily to assume a more prominent place in the British colonial system was destined to go on. The chartered colony was to give way before it until, as a form of government it sank into an inferior position, though the spirit which animated its founders and guided its policy still remained strong in the breasts of the majority of the colonists and formed the traditions which guided their action."² The eighteenth century previous to the Revolution was marked by

¹ Cambridge History of British Empire, I, 422.

² Osgood, American Colonies in Eighteenth Century, I, 37-8

the almost continual struggle between the forces of local democracy and the centralized autocratic power symbolized by the royal prerogative. By the middle of the century this struggle in the colony resulted in the development of a system of American liberty and political theories quite apart from those entertained in England, although analagous in many respects to the precedents afforded by House of Commons. These institutions and principles of liberty survived the Revolution with only minor variations and exist today in our United States. In the latter fact lies the justification of our treatment of the assembly as such, while the choosing of Massachusetts in particular has been prompted by the author's personal interest in that state.

Massachusetts, moreover, from 1692 until the close of the provincial era, displayed a significant departure from the ordinary type of government in the royal colonies. The British government in its official capacity had promoted the founding of none of the colonies in the western world. Nevertheless, Virginia, Barbados, Bermuda, and the other proprietary colonies which were destined to come under the crown, all had the features of royal government while still in private hands. "Each had a governor, council, and assembly; each was making its own laws with the approval of its proprietor; and each was subject, within certain limits, to proprietary supervision and control,"¹ and the Crown continued this system of government. English legislation was, in gen-

¹ Cambridge History of British Empire, I, 405.

eral, in effect in these plantations, and the colonists were thus "partakers of the most perfectly incomparable laws" of England. Of the American colonies, Connecticut and Rhode Island were alone corporate and self-governing, the former by virtue of the constitution placed in its charter. The other colonies were, in theory at least, governed according to the commissions and instructions issued to their respective governors. The government of Massachusetts, on the other hand, was based upon both a charter, and the commissions and instructions to her royal governor, appointed from England. Friction between these two elements of governing authority--representing respectively the popular will and the royal prerogative--was inevitable, and furnished the motif of Massachusetts history during the period with which we shall deal. This was especially true since several phases of assembly organization and many subjects of legislation gave opportunity for attack upon the prerogative.

Charters of 1691 and 1725

Among its many clauses, the Massachusetts Charter of 1691, granted by the Crown, provided that a General Court should be convened annually by the governor on the last Wednesday of May and more often if circumstances produced the necessity; that the General Court was to consist of the Governor, the Council, and the freeholders elected by the towns; that each town should send two persons to the Court, but that that body should apportion representation among

the counties and towns; that each delegate must take certain oaths and subscribe the Declaration before being seated in the Assembly; that the Governor have full power to prorogue, adjourn, and dissolve the Assembly; that twenty-eight councillors should be elected annually by the popular body, and should be removable by that body; that the Court have the power to name all appointees to the civil offices not reserved to the Crown or to the Governor; that the Governor have an absolute veto on all elections of officers and councillors, and on all acts of government; that the General Court should make "Orders, Laws, Statutes and Ordinances, Directions and Instructions" for the colony, not repugnant to the laws of England, and should impose fines, taxes, and levies, to be issued and disposed of by warrant of the Governor and Council; and, finally, at the first opportunity after their passage all laws must be sent to England for royal disallowance or approbation--these disallowed within three years to be void, others to remain in force until repealed by the General Court. These provisions were found not to cover all debatable points. Hence, in 1725, an explanatory charter was issued by the Crown, and accepted by Massachusetts lest the affairs of the colony be supervised directly by the English Parliament. The latter document stated that the Governor should convey his written approval or disapproval of the Speaker chosen by the Assembly, and that the lower House should not have the power to adjourn itself for more than two days without the Governor's consent.¹

¹ Both Charters in Acts and Resolves of Massachusetts Bay, I.

ORGANIZATION OF THE ASSEMBLY

As may be discerned in the Charter, the Assembly in the colonial government was to be the elective branch, representing the popular will, and exercising legislative powers subject to a rather comprehensive review by the Council, the Governor, and the Home Government. Its position in the General Court was somewhat analagous to that held in the English system by the House of Commons. The colonists in general maintained the view that the Assembly was co-equal with the lower branch of Parliament, and was called because of the inherent right of Englishmen to representative government; whereas the British authorities persisted in the attitude that the Assembly was convened and condoned as an expression of royal grace. "The authorities taught the colonists to look upon it as a miniature parliament. But by asserting and reasserting that the Assembly's privileges and powers were dependent upon the King's prerogative, they led the representatives to feel that the prerogative was the great enemy of their rights."¹

Place of Meeting

The General Court was convened ordinarily at Boston, then, as now, the leading town of Massachusetts. The august body usually met at the Boston Town House throughout the royal period. Twice during that period the building was burned, once entirely demolished, the second time quite destroyed except the exterior walls. Due to these two con-

¹ Labaree, Royal Government in America, 215-6.

flagrations many of the early records of the colony have been destroyed, and our descriptions of the first two edifices are necessarily meagre.

Taking action upon a bequest of money left to the town by a wealthy resident, in 1657, the town of Boston determined to construct a building suitable for public meetings, assemblies, and official conferences of local concern to be known as the Town House. " The house was to be 36 feet wide and 66 feet long, set upon 21 pillars 10 feet high, projecting 3 feet over the pillars on each side. Moreover there was a walk on the top, fourteen or fifteen feet wide, with two turrets, and balusters and rails around the walk. There were to be two pairs of half-paced stairs, and turned stairs up into the walk. We infer that there were two rooms one from each end chimney coming towards the the centre, with a stair case at each end, and that one of these halls was sub-divided into two rooms. Good floors, windows, mantel-pieces, gutters and other details are specified, showing that the town intended to have a good building." ¹

This building was probably completed early in 1659. Thereafter, the records show that the Town House was kept in repair by the province, the county, and the town-- the province paying half the upkeep, and the county and town sharing the other half. A public market was kept on the first floor, and various shops occupied most of the remaining space on the street level. " Upstairs we find that there were three

¹ Oration by Wm. H. Whitmore in "Rededication of the Old State House", 29-30.

rooms, one probably for the Governor and Council, and one for the Representatives,"¹ for it was in this building that the first General Court convened under the new charter in 1692, met to transact the government of the province. "The first building stood from 1658 to 1711, when it was burned in a terrible conflagration (Oct. 2-3). In it presided Governors Endicott, Bellingham, Leverett, and Bradstreet, under the old charter; Andros, under the orders of King James; and Phips, Stoughton, Bellomont, and Joseph Dudley under the new charter."²

The new Town House, commenced early in 1712, was a brick building in the Queen Anne type of architecture, 110 feet long and 36 feet wide, located at the juncture of King and Cornhill Streets (now respectively State and Washington Streets). The spare rooms, in under, and adjoining the Town House were let to shopkeepers - especially bookkeeper's shops.³ In November 1712, the following instruction made its appearance:

"Ordered that it be an instruction to the Committee appointed to build the Province Court House that they fit the East Chamber for the Use of His Excellency the Governor and the Honourable Council, the Middle Chamber for the House, the West Chamber for the Superior and Inferior Courts.

"Ordered that there be but two offices below the stairs in the Province and Court House now building in Boston, one for the Secretary, and the other for the Register of Deeds in the County of Suffolk, consented to by J. Dudley."⁴

¹ Whitmore, 32.

² Ibid., 34.

³ Ibid., Appendix A.

⁴ Massachusetts Court Records, 244; Whitmore, Appendix A.

This building was first occupied by the General Court in 1713, according to Samuel Sewall's Diary, and was used constantly until its injury by fire December 9, 1747, when practically everything but the walls was destroyed. The interior furnishings together with many books, paper and records of the General Court and the Governors' commissions and instructions were irremediably lost. "The General Court was offered the use of Faneuil Hall, but was accommodated for the few days remaining in the session at the Royal Exchange Tavern, kept by Luke Vardy, on the west corner of our present Exchange and State Streets."¹

After the fire of 1747, the General Court determined, not without considerable controversy, to repair the damaged Town House. The repairs on the building were completed before the spring session of 1750, the General Court convening meanwhile at Faneuil Hall in Boston. Of the renovated structure, "the first story was devoted as before to the uses of a public exchange. Two offices were provided on that floor - of which the Eastern Office was duly assigned to the Clerk of the Superior Court, and the Western was occupied by the Secretary of the Province. These offices were on the Northern side of the building. A range of Doric pillars, ten in number, which supported the second floor and superstructure, gave a certain dignity to the open space where the merchants most did congregate.

"The access to the second floor was by two staircases, known as the Eastern and Western staircases, and

¹ Whitmore 60.

leading to the passages between the central chamber and the other two chambers respectively of the second floor, there was undoubtedly an entryway and a convenient lobby in each. The three chambers were the Council Chamber at the Eastern end, the Representatives' Chamber in the centre, and the Court Chamber at the Western end. Of these the Representatives' Chamber was undoubtedly the largest from the first - (57 $\frac{1}{2}$ feet long, 32 feet wide, and 15 feet high, whereas the Council Chamber was 32 feet square and of the same height.)¹

"The upper portion of the building was left for several years in an unfinished state, and only gradually brought into use. I think there were only two rooms at the respective Eastern and Western ends, which may have been provided at first; for on the 14th of February, 1765, 'the Room in the Upper Story at the West End of the Court House' was duly appropriated by an order of Court to the use of committees during the time of the Court's sitting. And on the 27th of August of the same year, an order passed the House, that the Members for the Town of Boston be directed to cause one or more chambers in the upper story on the South side of the Court House to be finished for the accommodation of committees of the General Court."² The room at the East end of the third floor evidently was occupied by the selectmen of Boston.³

¹ Massachusetts Magazine, August, 1791; reprinted Whitmore, Appendix A.

² G. H. Moore, Prytaneum Bostoniense, p. 10 ff., the following excerpts are from this source.

³ Journal of House of Representatives, January 21, 1761:

"The chambers were all plain in construction, and their fittings and furniture simple in character, with probably hardly a touch of extravagance anywhere.

The Council Chamber was furnished with a large table and chairs, and one or more glazed bookcases stood in the room, in which were preserved care some valuable books which had been presented by liberal citizens and friends of the province, among which I may mention the Hon. Benjamin Lynde's gift of the Statutes at Large in six volumes folio, for the use of the Courts of Common Law sitting in this House, as well as the Legislature; and a complete set of the History and Proceedings of the Houses of Lords and Commons from the Reign of Charles the II, viz: eight volumes of the Proceedings of the Lords and fourteen of the Proceedings of the Commons, from Isaac Royal, Esqr., of Charlestown.¹

"The Royal Arms, also, which were subsequently removed and carried to St. John, N. B., where they now decorate a church, must have been a conspicuous feature in the Chamber. I have notes of description, made by an intelligent and observing stranger in 1769. He says of the 'decorations' at the Town House: 'In the Council Chamber, the picture of

"Inasmuch as the Select Men of the Town of Boston sit to do business in their Easternmost Upper Chamber of the Court House, and the Small Pox frequently breaking out, necessitates many of the Physicians in the Town, to attend them; this House apprehend it unsafe for such persons to pass and repass the Door of this House. Therefore,

"Voted, That said Select Men be desired to remove their office from said chamber, and provide themselves with some other suitable place, at the charge of the Government, during the present sitting of this Court."

¹ That the latter set of volumes was available to the Assembly is a most significant fact. See below, p.

Charles the 2d; James the 2d; and George the 2d, at full length, and the copies of the pictures of Governor Winthrop, Governor Endicott, Governor Leverett, Governor Bradstreet, Governor Burnet, and the picture three quarters of Governor Pownall. In the Representatives' Room the picture of Admiral Russell, betwixt the windows above the Speaker's chair. There is carved above the door the ancient arms of the Province, Emblem of the staple commodities of the Province.'

"The Representatives' Chamber was similar to its neighboring apartment on the East---but provided with wooden seats or benches for the members, arranged on the sides of the room. In 1773 an order was made to provide cushions for these seats.¹ The Speaker's chair was on the Southern side, and in front of him was 'the table' at which the Clerk only was permitted to sit...²

"The Boston Seat' must be specially noticed here. From the beginning of legislation under the Province Charter, Boston was entitled to four representatives, thrice (sic)³ as many as any other town-- and the 'Boston Seat' played an important part in everything that was done. It never failed to exercise a full share of influence in the House, which became more and more conspicuous as the era of the Revolution came on.⁴

¹ June 29, 1773, the House, "Upon a motion, Ordered, That the committee appointed to see to the necessary repairs of the State House, provide cushions for the several seats in this Room."

² No evidence warrants the belief that the Speaker sat upon a rostrum.

³ Evidently a misprint since a number of other towns were allowed two representatives.

⁴ See below, p. 68.

"It is very evident that 'the Boston Seat' was a front seat -- and I have reason to believe that it was actually in the central division of benches on the North side of the Chamber, directly in front of the Speaker. It was known and recognized from an early date, and 'the gentlemen of the Boston Seat', or 'the members of the Boston Seat', are frequently mentioned as being charged with special services and duties.¹

"It seems to have been the only monopoly of the kind and I can recall but one instance of an attempt to invade it. On the 30th May, 1754, the question being put, whether any particular seat in the House should be assigned to the members of the towns of Plymouth and Salem. The presumptuous ambition of those towns, however, was checked at once by a vote in the negative.

"The earliest decoration of which I have any certain date in the Representatives' Chamber was a Branch of Candlesticks for its Service and Ornament, which was offered by Isaac Royal, of Charlestown, and accepted with the thanks of the House on the 23rd April, 1748, immediately after the determination to rebuild the House. A subsequent reference to it by John Adams not only assures us that Mr. Royal's liberal intention was carried out, but that it was a 'brass branch of Candlesticks' which was duly put in place -- directly over the table of the Speaker and Clerk.²

¹ No mention of the Boston Seat in Journal (1715-35; 1758-74)

² The House was lighted by candles as early as 1725-26. Acts & Resolves, X, 727. Certain ornaments and useful articles occupied their places in the Chamber of the House, somewhat before this time, viz: "William Payne, Esq. brought in and presented to this House the pictures of King William and Queen Mary of Glorious memory.

"Ordered, That the thanks of this House be given to Mr. Payne

"In 1766, a new feature was introduced in the Representatives' Chamber, of remarkable importance. On the motion of James Otis, who with Mr. Hancock and Mr. Adams as a committee carried out the design, it was ordered that the debates of the House should be open; and that a gallery be erected on the Westerly side of the Chamber for the accomodation of such Persons as should be inclined to attend the same. It was further ordered that no Persons be admitted to a seat in the Gallery without applying to and being introduced by a member of the House. The work was completed before the end of the political year...."¹ In respect to this gallery, Hutchinson says: "although the following novelty cannot be mentioned as an instance of their assuming what they had no right to, yet it gave them (the Representatives) great additional weight and influence over the people; they had caused a gallery to be built, and opened, that all persons who inclined to it might hear their debates; and a speech, well adapted to the gallery, was oftentimes of more service to the cause of liberty than if its purpose had been confined to the members of the House."²

Since the Town House was situated at the intersection for his acceptable Present, and that they be set up in the House." Journal, I, 168-9; November 21, 1716.

As early as 1724, moreover, the Court House seems to have had two clocks, presumably one in the Council Chamber, and one in the Assembly Chamber. December 18, 1724, there was presented to the House "An Accompt for Mending two Clocks belonging to this Province." Journal, VI, 200. And by a resolve of 1724-5, 33 shillings was allowed to Benjamin Bagod for cleaning and mending the clocks belonging to the Court House. Acts & Resolves, X, 558.

¹ The foregoing description of the old Court House is taken from G.H.Moore, Prytaneum Bostoniense. Notes on the History of the Old State House.

² Hutchinson, History of Massachusetts Bay, III, 166.

of two busy thoroughfares, the members of the General Court were occasionally annoyed by the careless obstruction of the entrances to the building, and were frequently disturbed by excessive noise in the streets during the sessions. In several instances, legislation,¹ faintly suggestive of modern parking laws, was resorted to, in order to eliminate such annoyances of the representatives. A joint resolution by both Houses in 1746 forbade the beating of drums within ten rods² of the Court House during sessions of either House. A more common difficulty was the rumbling of vehicles passing along the streets outside the Chambers.³ This became so troublesome

1 Viz: "Whereas the doors of the court house in Boston, are often incumbered by teams, and other ways, so as very much to obstruct the members of the general court in their passage to and from the said house, --

"Be it therefore enacted...

"That no persons whatsoever shall presume to incumber the said house by stopping, or suffering to stand, any coach, chaise, chair, team, cart, sled, truck or wheelbarrow whatsoever, or by laying lumber, stones, mud, dirt or other incumbrance whatsoever within the distance of twenty-four feet from the west end, thirty feet from either side of the said house, upon pain of forfeiting five shillings unto the doorkeeper to the general court for the time being, and by him to be recovered before a justice of the peace.

"And in case any person or persons offending in either of the particulars before mentioned, after being thereto required by the doorkeeper, shall not forthwith remove any such incumbrance, he or they shall forfeit the sum of twenty shillings, to be recovered in like manner aforesaid.

"Provided nevertheless,

"That this act shall not be construed so as to hinder any coach, chariot, chaise, or chair from standing within the limits aforesaid, which shall be used by the Governor, Lieutenant-Governor, or any of the members of the general court for the time being." Acts & Resolves, III, 28.

2 Ibid., XIII, 606.

3 For instance: the House enacted "That after five days from the publication of this act, any person or persons presuming to drive or pass any coach, chaise, chair, cart, truck, or other carriage....in King Street, either on the south side or on the north side of the province court^{house} in Boston, during any sitting of the general court, between the hours of nine in the morning and one in the afternoon (either house then actually sitting)," shall be subject to a fine and certain other penalties. Acts & Resolves, III, 360.

that in 1748, the streets were closed to traffic during the sessions by means of chains stretched across the way at either end.¹

Upon sundry occasions the General Court was convened elsewhere than at the Boston Town House. For instance, in 1702 Governor Dudley removed the Court to Cambridge by his own authority, for some reason not readily ascertainable.² The reason for removal from Boston usually was the fear entertained by the delegates of the danger of contracting the small-pox which was rife in that town from time to time due to lack of sanitary improvements. In 1721 "a new General Court having assembled August 23, at the George Tavern on Boston Neck, to avoid the small-pox, which prevailed in that town, the Representatives resolved that as the place was not 'accomodable', the General Court 'be moved to Cambridge to such time as his Excellency thinks fit.' This resolve was concurred in by the Council but was not consented to by the Governor, who deemed it an infringement of the Royal Prerogative as fixed by the Charter. A controversy was thus opened between Governor Shute and the Representatives, which was unsettled when the Court was prorogued, on the ninth of September, to the first of November following. October 31, the Court was prorogued by proclamation to November 3, at Harvard College, in Cambridge, where it sat one day, and was again prorogued to the seventh of the same month. This second session continued until November 17. After several prorogations the Court began its third session upon the second day of March, 1721-22, when the Governor desired the House to proceed to business in the afternoon, if they were 'of opinion that the Court might sit in this

1 Ibid., III, 467; also see p.516,867; IV, 370.

2 Journal, II, 382 - a reference thereto.

town with'. The House, in answer to this message, having voted that it was more safe and expedient to remove the Court to Mr. Thompson's tavern at the upper end of Cambridge', the Council, accordingly, by direction of the Governor, adjourned the Court 'to meet at the Swan Tavern' on the Tuesday following.¹

On October 24, 1728, Governor Burnet ordered "that this Great and General Court or Assembly should be Adjourned to the Court House in Salem in the County of Essex unto Thursday the Thirty-First Day of this Instant October at Ten of the Clock in the Forenoon."² The reason for this move as expressed in the Governor's message to the General Court a few days later, was that he feared public opinion in Boston was influencing the Assembly too strongly to resist royal instructions.³

The House resented the Governor's action and speech, and demanded a return to Boston,⁴ but Burnet was determined. The following year, "the governor having held several sessions at Salem without any success he adjourned the court, to meet the 21st of August at Cambridge."⁵ This widened the breach, and the house grew warmer in their votes and messages, and complained that they were to be compelled to measure against their judgement, by being harassed and drove from one part of the province to another.⁶ The fourth and last session of the year was held at Boston.⁷ When the new Assembly had been elected, "on account of the small-pox which prevailed

1 Acts & Resolves, II, 234, note.

2 Journal, VIII, 361.

3 Ibid., 362.

4 Ibid., VIII, 363 ff.

5 Ibid., IX, 56, gives the date as August 27, 1729, - Hutchinson is evidently in error here.

6 Hutchinson, II, 364.

7 Ibid., II, 367; Journal, IX, 116.

in Boston, the first session, beginning May 27, was held at Cambridge 'in the College Hall', and after sitting four days was adjourned by the Lieutenant-Governor to the 30th of June, at the same place. Here the Court sat for four days and was prorogued to July 29, and so on, by proclamation, from time to time, until September 9, when it again assembled at Cambridge upon the proclamation of Belcher who had arrived with his commission as Governor. This (third) session was adjourned, October 3, to the East Meeting-House in Roxbury, where it continued from the 7th to the 22nd of that month, and on the 23rd in the George Tavern on Boston Neck, and remained there until October 28th, when it was again adjourned to December 16th at the Court House in Boston..." It was dissolved January 2, 1730-31.¹

Salisbury was the place of meeting of the General Court for a time in 1737.² In 1751-2, due to the prevalence of an epidemic of small-pox at Boston, the fourth session of the year was convened at Harvard College in Cambridge.³ The following year the General Court met for its first session at Concord; the second session was commenced at Harvard College but was adjourned to the Court House in Boston; while the third session was held at the Town House in Boston.⁴

1 Acts & Resolves, II, 573-4; note Journal, IX passim.

2 Hutchinson, II, 390.

3 Acts & Resolves, III, 605.

4 Ibid., III, 662.

"In June, 1769, the General Court having refused to go on with the business of legislation, in view of the military occupation, and under the guns of the Main Guard which were planted opposite the doors of the Court House...the Governor took them at their word and adjourned the Court to meet the next day -- June 16th, at Cambridge." All sessions were held¹ at Cambridge until the return to Boston in January, 1773.

After nearly four years of absence, the General Court² was again convened at Boston in the Town House. There it continued to sit during the remainder of the provincial period, and for many years thereafter.

Time and Number of Sessions

The Charter of 1691 provided that a General Court or Assembly should be elected each year and convened annually by

¹ G.H.Moore, 26-27; The situation of the Court at Cambridge may be discerned from the following entry in the Journal under the date of March 15, 1770: "Harvard College, Cambridge...

"It was moved that a committee be appointed to wait on his Honor the Lieutenant-Governor in the Philosophy, and acquaint him, that the Members of the House were introduced into the Chapel and that a Quorum of the House are there..." Journal, 1769-70, p.89.

² In the meantime the Court House had fallen into disrepair. January 9, 1773 a "committee was appointed to inspect the state of this Building and report what repairs are necessary." On February 2, "The committee appointed to inspect the state of the Court House, reported.

"And thereupon it was 'Ordered, that the Speaker, Mr. Hancock, and Mr. Adams, with such as the Honorable Board shall join, be a committee to see to the necessary repairs of the Court House, and to agree with a Painter to paint the Rooms in which the Council and House of Representatives sit in the General Assembly.'

"The Legislature sat until March 6, 1773-- so that the repairs were probably made between that date and May, when the new Court assembled.

"June 29th, 1773. Upon a Motion, Ordered, That the committee appointed to see to the necessary repairs of the State House, provide cushions for the several seats in this room." G.H.Moore, 27-28.

the Governor on the last Wednesday of May. This provision thus specified the date of the opening of each successive political year, and insured at least one session of the Court every twelve months. The Governor, moreover, was empowered by the Charter to call such extra meetings of the Assembly as he¹ deemed necessary; and the number of such meetings was dependent upon the number of prorogations of the House by the Governor.

The number of sessions held yearly throughout the period before the Revolution varied considerably from time to time, as demand for legislation was more or less urgent. In time of war, a large number of sessions were ordinarily called, but on the other hand the length of each session might be so long that few could be held in a year. In 1709-10 and the two following years, six sessions were convened each year; in 1729-30 and 1730-31, there were four each year; and in 1755-56 and in 1756-57 eight sessions were held annually. Usually, however, only two or three sessions took place; and² in 1768 there was only one.

Dissolution of the existing Assembly by the Governor before the end of the political year for any cause, was another factor which might alter the number of sessions in any given year. In such cases when the Governor saw fit to call a new Assembly, new elections became necessary, and special election writs were issued from the office of the secretary of the province at the order of the Governor, thirty days previous to the date for the Assembly's meeting. Only eight

¹ See above p.6.

² Acts & Resolves, passim.

times during the royal period, however, was it found imperative to issue such general election writs for the choice of¹ a second Assembly within a year.

Except upon extraordinary occasions the House met daily except Sunday. It was customary, moreover, for them to adjourn before their midday dinner on Saturday until Monday afternoon. Saturday afternoon and Monday morning sessions were not, however, infrequent. The regular hours of meeting were nine o' clock in the morning, and three o' clock in the afternoon in the summer time; ten o' clock and three o' clock in the winter. Adjournment of the morning sessions for the dinner hour, usually at one o' clock, must have been an automatic affair, for there is rarely any record of such adjournment in the account of the proceedings. An afternoon or morning meeting, or even a whole day, might be omitted if² the pressure of legislative business were not too great. Or daily sessions might be entirely wasted without any legislation being acted upon, as in 1728-29.³

Elections

The Charter of 1691, in the provision that the General Court that was to be held annually should consist of Governor, Council, and "such freeholders or other inhabitants as shall be elected" by the towns, implied the holding of an

1 The dates on which such writs were issued: November 8, 1693; March 10, 1702-3; December 15, 1714; July 13, 1720; August 23, 1721; November 22, 1727; February 10, 1730-31; July 8, 1741. Acts & Resolves, I, preface. By the third and seventh of these extraordinary Assemblies, no acts were passed. It is interesting to note that there were no second elections at all during the period of controversy between the Governor and House after 1750. For procedure in these elections, see below p.22-26.

2 Journal, passim. On adjournment, see below p.

3 Ibid., VIII, 362 ff.

annual election of representatives. The towns were to elect in their town-meetings two delegates to the Assembly, who should be men possessed of freeholdings of land yielding an income of 40 shillings per annum, or of estates valued at 40 pounds sterling.

On November 30, 1692 the House passed a bill entitled "An Act for Ascertaining the Number and Regulating the House of Representatives." This piece of legislation specified more definitely the procedure which should be followed in the election of the members of the Court. Section II of this law provided "That when and so often as his excellency the governour shall see cause to convene and hold a great and general court or assembly, writs shall issue out from the secretary's office, under the seal of the province, and signed by the governour, thirty days at least before the time appointed for such assembly's meeting, directly unto the sheriffs of the several counties. And where there is no sheriff in any county or place, there to be directed to the marshall, commanding each one of them respectively to send his precepts to the selectmen of the several and respective towns within such county, to assemble and call together the freeholders and other inhabitants qualified as aforesaid,¹ to choose and elect one or more freeholders, as the number in each town is more or less, as above,² to serve for and represent them in

1 With property qualifications as stated in the charter, viz: Freeholders of land yielding 40 shillings per annum; or estates worth 40 pounds sterling. (The act of 1692-3 concerning property qualifications was disallowed by the Privy Council because the 40 pounds clause disagreed with the English copy of the Charter which read 50 pounds. Acts & Resolves, I 363, note.)

2 Acts & Resolves, I, 39.

such great and general court or assembly; the major part of the selectmen in each town respectively to be present at the meeting, and to give directions for the regular and orderly carrying on of the same; who are to return the said precept, with the names of such as shall be chosen by the major part of the electors present at such meeting, under their hands unto the respective sheriffs or marshalls, by them to be returned into the secretary's office, one day at least, before¹ the time prefixed for the said court or assembly's sitting. Cases of complaints of irregularity in elections were commonly brought before the House for decision.²

Section I of the same act apportioned representation among the towns in the following manner: Each town of forty or more freeholders and other inhabitants should send one delegate; towns of one hundred twenty-five or more freeholders and other inhabitants, two delegates; those towns of from thirty to forty such persons might send one delegate each if they desired and were willing to bear the expenses; while the towns of less than thirty freeholders and others were allowed either to send one delegate or to join with a neighboring town in supporting a representative. No town, however, was granted more than two delegates, except Boston, which was to have four members in the House.³

Determination of the qualifications of voters and representatives was a matter usually left in the hands of the Assembly, but "nearly everyone agreed that the right to vote or

1 Acts & Resolves, I, 89.

2 See below, p. 34.

3 Acts & Resolves, I, 88.

to sit in the assembly ought to be limited to freeholders--¹
those who had a tangible stake in the community."

By an act of 1692, the Representatives declared themselves to be the sole judges of the qualifications of their own members, and that they might "from time to time settle, order and purge their house, and make such necessary orders for the due regulation as they shall see occasion."² As a corollary to this view of the situation, Governor Phips, for political reasons, urged the House in 1693 to pass "an act requiring representatives to be residents and freeholders in the towns from which they were elected." It did so by a small majority.³

Thereafter, the Assembly was free to regulate the qualifications for voters and its members as it wished, until in 1767 royal instructions forbade acts by the Assembly fixing⁴ qualifications for voters or elective officers. It is questionable, however, whether the instruction bore much weight in the face of such long established usage.

⁵
In addition to extraordinary elections for the choice of second assemblies within the year, special elections were frequently found necessary in order to fill vacancies appearing in the Assembly. Such vacancies might arise through failure of a town to elect its representation at the time of the general election; through resignation of a representative-elect; through the death or dismissal of a member of the House; or through the election of councillors from the

¹ Labaree, Royal Government in America, 188.

² Acts & Resolves, I, 89.

³ Osgood, I, 317.

⁴ See Labaree, p.189.

⁵ See above, p.22

ranks of the Assembly. In all such cases, the writs employed in general elections were not used; but instead, precepts were sent directly from the House, presumably under the sign and seal of the Speaker,¹ to the local marshal or selectmen of the towns involved, ordering the election of a new delegate to fill the vacancy.²

Although the House was generally conceded to be the sole judge of the elections and qualifications of its members,³ a unique case arose in 1694, when Governor Phips objected to the admission of six elected members of the House, and declared by writs their seats vacant.⁴

Whenever a town disregarded the writs and precepts of general elections, or the special precepts issuing from the House, it became liable to a fine imposed at the discretion of the House.⁵ The fact that in the early part of the period, such fines were collected from the county sheriffs or marshals, or town officers, tended to fill rather quickly all vacant seats which appeared in the Court.⁶ Later on strict observance of the precepts must have lessened for in May, 1762, fifteen towns were fined for failure to send representatives; in June, 1763, eight towns; and in June, 1765, twenty-two.⁷

1 May 29, 1724, the House "Ordered, That a Precept be issued out under the hand and seal of Mr. Speaker, directed to the Select-Men of the town of Boston, to assemble that town in order to choose a Representative for them in the Room of the Honourable John Clark Esq., who has lately been elected a Councillor of this Province, and that the said Select-Men make return thereof to this House at or before Monday the Eighth Day of June next." Journal, VI, 7-8.

2 For instance, one finds the following typical entry in the Journal: "Ordered, That a Precept be sent to the Town of Rochester, to elect and send a Representative to Attend His Majesty's Service in this House, on the 10th Curreant and so de die in diem during sessions thereof, in the room of the said Mr. Randall," who had been expelled from the House. Journal, I, 10.

3 Acts & Resolves, I, 89-90.

4 Osgood, I 318.

5 Acts & Resolves, I, 146-148.

(cont.)

From time to time difficulty was met in discovering qualified freeholders who were willing to "attend his Majesty's Service" in the General Court. This was especially true in the early period, probably before the "legal-minded" man was such a prevailing type in the colony as he was later. In 1696 six men refused to serve as Representatives for the town of Swanzey before a willing delegate could be found;¹ while in Marshfield the same year four men refused the honor of representing their town in the Assembly.² This difficulty might possibly be overcome by requiring an elected Representative to attend the Court, despite apparent reluctance to accept the position.³

The size of the Assembly increased gradually throughout the period as the population, the number of towns, and the proportion of qualified voters grew within the province. In 1692-3, the Assembly contained 154 members, by reason of the charter provision that each town should elect two representatives to the popular body of the General Court. In November, 1692, however, the act regulating the apportionment of representation was passed,⁴ and the new Assembly elected in May, 1693, was made up of only seventy-two delegates.

6 A different method of collection was used in later years. The £ 20 fine upon each of several towns was added to that town's proportion of the province tax for the year. Journal, XI, 29.
7 Ibid., 1762-3, p.12; 1763-4, p.41; 1765-6, p.16-17.

1 Acts & Resolves, VII, 104, note.

2 Ibid., I, 105, note.

3 "Mr. Nathaniel Saul return'd Representative of the Town of Dartmouth, not appearing,

"Ordered, That Mr. Speaker issue his Warrant, requiring him forthwith to attend His Majesty's Service in the House."
Journal, II, 3.

4 See above, p.24; also Acts & Resolves, I, 88-90.

From that year until 1774, the growth of membership in the House was steady, although gradual, until in the latter year, one hundred forty men sat to represent the various towns of Massachusetts.¹ The increase can be traced quite consistently in the Journal, for hardly a session passes without political recognition and representation being granted to at least one new town by the House of Representatives.² It is interesting to note that with the passage of years, there was an increasing tendency to reelect the same delegates for several consecutive terms.³

¹ The increase can be shown by listing the average number of members returned annually by ten-year periods: 1693 to 1700-1, sixty-seven; 1701-02 to 1710-11, seventy; 1711-12 to 1720-21, eighty-seven; 1721-22 to 1730-31, ninety-four; 1731-32 to 1740-41, one hundred one; 1741-42 to 1750-51, one hundred six; 1751-2 to 1760-61, one hundred four; 1761-62 to 1770-71, one hundred twenty; 1771-72 to 1773, one hundred thirty; 1774, one hundred forty.

Acts & Resolves, 1692 - 1774, passim.

² Journal, 1715-35; 1756-74, passim.

³ 1695-96 63 total membership 14 reelected from previous year.

1697	67	"	"	17	"	"	"
1709-10	76	"	"	37	"	"	"
1735-36	106	"	"	55	"	"	"
1736	105	"	"	71	"	"	"

Acts & Resolves, VII, 44, 73, 105, 148; IX, 4-5, 54-55, 118, 172; XII, 4-5, 124-125, 258-259.

Journal, 1715-36 passim.

In considering the matter of regularity of attendance in the House of Representatives during the provincial period, a serious handicap is met in the fact that no record of attendance for the early years is available. If the roll-call was ever made at any session, no information concerning it was engrossed on the pages of the Journal. In the later period, however, the approximate number of delegates present at certain sessions may be ascertained by noting the number of votes cast as recorded by the clerk. On the average, about three fourths of the total membership of the House was a fair attendance,¹ at that time.

The problem of non-attendance at meetings of the House was apparently a continuous one. The very fact that forty members constituted a quorum by an act of 1632,² is significant as showing that full attendance of all the delegates was hardly to be expected at any given time. Another section of the same act required constant attendance while the House was in session. A fine of five shillings per diem was imposed for absence of a delegate without excuse by the members then assembled. No member was allowed to depart or absent himself from the House until that body was adjourned or prorogued, without the consent of the Speaker and the members, on the pain of losing his pay. The act was made more severe by in-

1 This statement is based on the figures of nine occasions
chosen at random:

Month	Day	Year	105	total	72	present	Journ.	Year	Page
October	12,	1758	105	total	72	present	Journ.	1758-9,	p. 96
A.M. February	1,	1764	116	"	77	"	"	1763-4,	p. 25
P.M. "	1,	"	116	"	77	"	"	"	p. 26
February	1,	1765	115	"	61	"	"	1764-5,	p. 206
January	23,	1766	116	"	66	"	"	1765-6,	p. 214
December	5,	1766	124	"	88	"	"	1766-7,	p. 209
February	19,	1767	124	"	106	"	"	1766-7,	p. 300
February	10,	1768	122	"	93	"	"	1767-8,	p. 156
June	1,	1763	126	"	113	"	"	1768,	p. 23
2 Acts & Resolves, I, 39,			20.						

clusion of a clause enabling the truant's property to be attached, if he neglected to pay his fines as required.¹ In November, 1693, another act was passed inflicting a forfeiture of forty shillings by a representative for not attending the opening day of a new Assembly.² The collection of such fines was usually farmed out to some one member of the House during the first half of the period at least.³ Occasionally, however, at a later time the House concerned itself with the matter of poor attendance. This action by the House was quite unusual,⁴ but occurred numerous times thereafter. Upon several occasions in the early period, the House found it necessary to require certain members to attend the Court.⁵

This type of action on the part of the Court became more frequent in the later provincial period,⁶ for the delegates seemed to become more and more careless about their attendance. The growing practice at that time was to attend the Court when legislation which interested the delegates in question was in debate or in process of enactment. At other times, they were wont to leave the Chamber. At least twice the House endeavored to check this tendency by voting that no member should depart without express permission to go.⁷ On June 21, 1770, it was voted to call the roll of members twice a day

1 Acts & Resolves, I, 89, 90.

2 Ibid., I, 147 3 Journal, XII, xv, 186.

4 Journal, V, 215, 320; On April 18, 1735, four members were fined for absence at the rate of 5 shillings a day. Journal, XII, 203. Also Ibid., XI, 409-410.

5 December 3, 1719, the House "Ordered, That Mr. Speaker Issue his Warrants to.....(five members) That they forthwith attend His Majesty's Service in this House." Journal, II, 211; see also above p.27, note 3.

6 Journal, 1763-64, p.209; 1768-69, p.70-72.

7 Ibid., 1764-65, p.283; 1771, p.208.

during the rest of the session;¹ and at a later date that same year, it was deemed advisable to send an express to the absent members requiring their attendance.² Nevertheless, not even these measures were successful in enforcing perfect attendance at any time. This excessive truancy seldom proved a real obstacle to the passage of legislation, however, since the business quorum remained at its early low figure.

At least two important reasons for such chronic lack of attendance seem to offer themselves: the difficulty of rapid transportation and communication, and the imperative demands of the members' family affairs and private businesses. As a rule, attendance was at its best in the late spring and early summer, whereas harvesting in the autumn often necessitated temporary absence from the Court, and the uncertainty of New England winter weather followed by the dangerous spring freshets, unquestionably deterred many Representatives from attending the Court properly and constantly.

The delegates to the General Court received remuneration from the towns which they represented, for their services rendered as members of the Assembly in the town's interests. By an act of November, 1692, each town was required to pay its representatives three shillings per diem for the time spent in attendance at the Court, and the days used in traveling to and from the sessions. These wages were due the

1 Ibid., 1770-71, p.43.

2 Ibid., 1770-71, p.82.

members of the House within one month after the end of each session.¹ Various statutes were passed thereafter regulating the amount of money that the towns should pay their representatives - - the amounts varying from two to six shillings a day.² This allowance served to meet the living expenses of these men while they were acting as legislators, but had to be eked out to a considerable extent by private enterprises or agriculture. The fact that the towns paid these salaries and not the province indicates the local individualism which characterized Massachusetts at that time; and it enabled the local communities to exercise more absolute control over their representatives, than they otherwise could have hoped to do.

Organization for Business

On the last Wednesday of May, each year, the newly-elected representatives would take their places in the Chamber of the House of Representatives, at the usual hour. Before legislative business could be attended to, the House must organize itself.³ This organization generally followed about the same order and form. The first step of the procedure was the taking of oaths by the delegates, as required in the Charter of 1691. That document provided that the oaths might be taken and subscribed by the representatives "before the Governour and the Lieutenant-Governour or any two

1 Acts & Resolves, I, 89-90.

2 Ibid., I, 740; II, 406, 591-92, 620-21, 855-56, 937-38, 1074; III, 23, 206, 241, 296, 370.

3 It is uncertain who presided at the opening of the session; possibly the Speaker of the preceding House, or the Clerk thereof. The Journal offers no information on this point.

Councillors appointed by the Governour." As a matter of fact,
¹
three councillors were usually authorized by the governor or
lieutenant-governor to perform the administration of oaths.
The following excerpt under the date of May 27, 1724, the open-
ing day of the session, is illustrative of the program followed:
"The Honourable John Cushing, Samuel Thaxter, and Spencer Phipps,
Esqrs; came down from the Council Board and acquainted the
House, that they were appointed and empowered by Dedimus² from
His Honour the Lieutenant-Governour³ to administer the Oaths
to the Members of the House respectively, and that they were
accordingly directed to Take and Subscribe the Declaration,
Take and Subscribe the Oath of Abjuration (as by the ROYAL
Charter of this Province is directed) before them; which was⁴
done by all the Members Present, and then they withdrew."
Those delegates who were delayed in their arrival were not
allowed to assume their seats in the House, until they had
repaired to the Council Chamber and taken and subscribed the
oaths before the designated men.⁵

The House was now ready to go on with its task of org-
anization.⁶ Ordinarily, the next development was that, "The
House proceeded to examine the Returns on Precepts for the
choice of Representatives, and consider the Excuses of the

1 For example: Journal, I, 1; VI, 3; etc.

2 A writ, giving authority.

3 Dummer; Gov. Shute had returned to England, Dec., 1722.
Osgood, III, 173.

4 Journal, VI, 3.

5 Ibid., I, 68; XI, 72; 1758-59, p.29-30; etc.

6 The procedure sometimes varied; the choice of Speaker and
Clerk, and even the election of Councillors might precede
the examination of the precepts, viz: Journal, I, 3.

several Towns that had not sent their Representatives according to Law.¹ These precepts, certificates of election, were in the office of the Secretary of the Province,² from whence they were obtained by an order of the House, being brought in and placed on the Clerk's table by the member deputed or by the Secretary himself.³ There followed the reading of the precepts, presumably by the Clerk, and the names of the delegates elected from the respective towns were inscribed by that official on the Journal. The House considered these certificates, and in cases of evidence showing illegality in an election, exercised the power of deciding on the matter; for by an act of 1692 the House declared itself the sole⁴ judge of the elections and qualifications of its members. And the Assembly did not hesitate to assert its authority in this respect.⁵

After the examination of the election precepts, the House proceeded to the choice of a Speaker. The election of this officer was evidently conducted by means of written ballots, as may be perceived from the following entry in the Journal, dated May 25, 1715: "The House proceeded to write their

1 Journal, VI, 6.

2 See above p.24.

3 Journal, IX, 207.

4 Acts & Resolves, I, 89, and above pp.24-26.

5 "Upon the reading upon the Precept to the Town of Framingham,

"It being Remark'd and Objected, That the said Return is signed but by three Select-Men (there being five in the Town), one of which three is Colonel Buckminster, the Person returned, and Debate arising thereon.

"Resolved, That the said Return be accepted notwithstanding, though the said Buckminster is one of the Select-Men, the other two Select-Men not being present at the meeting when the choice was made," Journal, II, 3.

See also Ibid., II, 5, 9; V, 3, 6, 27; VI, 19; VIII, 14; Acts and Resolves, VII, 104, note.

Votes for a Speaker which being Collected, and Examined, it was found that John Burrill, Esq; was chosen by a major part of the House, and he was accordingly conducted to the Chair."¹

In accordance no doubt with the recognized right of the Governor to place his absolute negative upon all elections, by authority of the Charter of 1691, it became the custom for the Speaker of a new Assembly to be presented to the Governor for his approval. This precedent was established in the royal period when on June 8, 1692, "Several of the principal members of the House of Representatives waited upon his Excellency, acquainting him that they had made choice of Mr. William Bond to be Speaker of their House, whom they now came to present before his Excellency; and the Speaker in behalf of the House, prayed his Excellency that there might be allowed unto them the accustomed priviledges of an English assembly, which they Expected as their due;All which his Excellency readily consented to be granted them. William Phips."²

This personal presentation of the Speaker was subject to several changes during the period. These changes were the cause of considerable controversy between the House and the Governor, and led in part to the issuance of the Explanatory Charter of 1725.³ The first alteration in procedure to be noted was in 1715,⁴ when there was "a message sent up to the

¹ Journal, I, 1. The Journal unfortunately records no evidence of who served as tellers, or who conducted the Speaker to his place.

² Acts & Resolves, I, 90, note; Council Records, VI, 218.

³ See above p.6; and below p.

⁴ This change may well have occurred earlier, but there is no evidence of it in the absence of the Journal for the period before 1715.

Board by ...(a committee of two members) to report to His Honour the Lieutenant-Governor,¹ the choice the House had made of a Speaker.

"A Message from His Honour the Lieutenant-Governour by.. ..(two men) That the Choice the House have made of a Speaker, is very acceptable to him."² These messages were conveyed informally and orally so far as can be ascertained.

In 1721 the variation in informing the Governor of the choice of Speaker, shows even more plainly the growth of disrespect for the royal prerogative in the person of the Governor. The House, having chosen their Speaker, did not send to ask the approval of the Governor, but instead sent a message "to acquaint his Excellency the Governour and the Honourable Board; That John Clarke Esqr; is chosen Speaker of the House, and is now sitting in the Chair."³ The temper of the Assembly is clearly indicated in the fact that their Speaker-elect, John Clarke, had been negatived as councillor by Governor Shute the previous year. "In order to prevent the governor negativing their choice of Speaker, the House notified Shute and the Council jointly of this act."⁴ The Governor summoned the House to the Council chamber, but before they had come, he changed his mind and sent a message informing them that he accepted the chosen Speaker. "This was giving a construction to their message which they did not intend, and it was giving his consent before it was asked, but it was to be preferred to

1 Dummer; the governor having returned to England.

2 Journal, I, 78.

3 Ibid., III, 4.

4 Osgood, III, 161 ff.

a dissolution,"¹ for no councillors had yet been chosen for the year. The Assembly was dissolved on July 20, however, for various reasons,² and writs were issued for a new election.

The new House was convened August 23, 1721, and again chose John Clarke as Speaker. Having informed the Governor and Council that their Speaker was chosen and in the chair, the House received a written reply sent by Governor Shute through his Secretary: "I accept the choice of John Clarke Esqr; as Speaker of the House of Representatives.

August 23d, 1721

SAMUEL SHUTE."

The Assembly thereupon returned a message, "That this House, when they sent up to Acquaint his Excellency, and the Honourable Board, with the choice of a Speaker, they did it for information only, and not Approbation."³

Two days later the Governor sent to the House an extract of a letter from the Board of Trade in England, which expressed the opinion of Sir Robert Raymond, the Attorney General, that the Charter of 1691 gave the Governor power of exercising his veto on the choice of the Speaker of the House.⁴ The Assembly accepted the information, but vouchsafed no reply. The new Assembly in May, 1722, however, merely informed the Governor of their choice of Speaker, receiving⁵ and apparently expecting no reply from Shute. No further change in procedure occurred until the Explanatory Charter of

1 Hutchinson, II, 250.

2 Osgood, III, 163; see below p.

3 Journal, III, 86, 87.

4 Ibid., 90-92.

5 Ibid., IV, 2.

1725 arrived in the colony. This charter expressly stated that the choice of a Speaker in the House must be approved¹ or vetoed by the Governor in writing.

The issuance of this explanatory charter was a triumph for the royal prerogative exercised by the Governor. Thereafter, the House became accustomed to obtain the written approval of their Speaker-elect, which was usually given "pursuant to the Direction of the Explanatory Charter." Moreover a committee was usually appointed to present the Speaker³ to the Governor.

Ordinarily, henceforth, the Governor's written approval of the Speaker was mere formal sanction. The new charter had accomplished its purpose -- to eliminate a source of controversy by specifying the Governor's power in the choice of the Speaker.⁴ But when he did veto a choice of the House, it was found necessary to elect a new Speaker.⁵ In the early period the Governor had twice placed his negative on selections, by the House, in 1705 and 1720. Upon neither of these occasions, however, had the House elected new Speakers, but had continued to oppose the Governor's exercise of the prerogative.⁶

1 Acts & Resolves, I, 22; see above pp.6, 35.

2 Lieutenant-Governor so accepted Speaker, Nov. 22, 1727. Journal, VIII, 4-5.

3 Ibid., 1762-63, p.5. This custom may have grown up earlier during the period 1736-58 for which the Journal is not available.

4 The "Speaker" is not referred to in the Charter of 1691, but was apparently of local origin.

5 Journal, 1762-63, p.5.

6 "The Governor had continued to strike out Oakes whenever he was elected to the Council; hence in 1705 the House chose him for its Speaker. The governor vetoed this choice, but the House refused to elect anyone else or to make any compromise...." E.Kimball, Public Life of Joseph Dudley, p.92-93.

In the former case, Governor Dudley considered it expedient¹ to yield to the importunities of the Assembly; but in the latter instance when the House insisted upon maintaining its choice of Speaker², Governor Shute retaliated by dissolving the Court.³ After 1725, the possibility of disagreements between the Governor and House in this matter, was obviated by specific provision in the explanatory charter.

In May, 1762, there occurred a unique instance of refusal of the honor and prestige in the Speakership, by James Otis, who upon being elected, begged the House to excuse him. His reasons must have been acceptable, for Timothy Ruggles⁴ was chosen in his stead.

Upon occasions when the Speaker was not present in the House, that body chose a member to occupy the chair pro tempore. Choice was usually made in the following manner, viz: "Mr. Speaker Burrill being absent:

Ordered, That Colonel Hutchinson be desired to officiate as Speaker until the return of Mr. Speaker Burrill."⁵

1 Ibid., p.93. The Journal tells that "Governour Dudley did in his Government disallow of a Speaker chosen by the House, and that his Proceedings therein were approved by the Commissioners of Trade and Plantations, and that he was thereupon directed from the said Lords Commissioners, to acquaint the Council, that it would not be fit, that her Majesty's Right of having a negative upon the Choice of a Speaker be given up, and which was reserved to her Majesty, as well as by the Charter, as the Constitution of England." Journal, II, 229.

2 "The Question being put, Whether the House upon the Reasons assigned by His Excellency will proceed to the Choice of a new Speaker? It passed in the Negative, Nemine Contradicente." Journal, II, 233.

3 Ibid., II, 233.

4 Ibid., 1762-63. p.5.

5 Ibid., II, 25.

Election of this officer was never by written ballots,¹ but by an oral vote or resolution. In the early period it does not seem to have been customary to seek the Governor's approval of such temporary officer; but in the later period after 1753, the sanction of a Speaker pro tempore was usually sought. However, if the Governor refused to consent to the choice of the House, they were forced to choose another member to officiate for the time being.

Experience evidently was considered a requisite for a successful Speaker of the House of Representatives, as the years passed. Before 1711, no Speaker held the office for more than three years; but thereafter there² were a number of long Speakerships. The office became a desirable one, and "the Speaker had a position of honor and respect within the Assembly.....He controlled the business of the House and saw that it was conducted with order and propriety. He issued writs to... bring persons before the House for examination of reproof, and served as the mouthpiece of the House in communicating with the governor or council or the outside world."³

The election of a Speaker in the House of Representatives having been completed, and the Governor's approval indicated, the Assembly next continued the process of organiza-

1 Ibid., II, 25; 1764-65, p.210-211. No record of written ballots for this purpose, in the Journal, passim.

2 Long Speakerships:-

John Burrill	May, 1711 to April, 1720
William Bulley	" 1724 " " 1729
John Quincy	" 1729 " " 1741 (longest term)
Thomas Cushing	" 1742 " " 1746
Thomas Hubbard	" 1750 " " 1753

Acts & Resolves, passim.

3 Cambridge History of British Empire, I, 431.

tion by a plain ballot for a Clerk of the House. The Journal for May 25, 1715, relates: "The House Proceeded to write their votes for a Clerk, which being collected and examined, it appear'd that Mr. John White was chosen by a major part of the House, who was accordingly sent for to the House." This procedure seems to have been customary throughout the period, except that the Clerk-elect ordinarily took oath to fulfill his duties to the best of his ability. The wording of this oath varied from time to time; and the oath might be administered by any member of the House, including the Speaker. Although this induction ceremony usually occurred in the presence of the House, it is not always entered in the Journal.

The regular duties of the Clerk involved keeping the Journal of the House; receiving bills at the table; reading bills, reports of committees, and anything of whatever nature that the House wished read; and serving as guardian of the books, records, and papers of the House. Extra duties were sometimes imposed upon him, especially that of preparing the Journal and other papers for the printers. He was also empowered to issue writs and warrants bearing his seal and sig-

1 Journal, I, 1. The Clerk was not necessarily a member of the House. White was not elected a delegate. No record of the Clerk's taking oath occurred at this time, although he doubtless did so.

2 May 29, 1720; "John Mainwright Esq; was chosen by a major part of the votes, and an Oath was administered to him by Daniel Dimes Esq; in the words following, viz:

"Whereas you John Mainwright are chosen Clerk of this House, you do swear, That you will truly Enter All the Votes and Orders thereof, and in all Things relating to your Office you will act faithfully and impartially. So help you GOD."

Journal, IX, 4. See also Ibid., II, 235.

3 Journal, I, 1.

4 Ibid., I, 166; V, 309; VI, 209.

5 Acts & Resolves, II, 64, 410, 735.

Member from Salem; probably a Justice of the Peace.

¹
nature,-- documents which were served as official business
from the House.

When the Speaker was absent from the Assembly and no
substitute was chosen, the business of the Court seemed to pro-
ceed much as usual, probably with the Clerk in the Chair.
Bills and petitions were read, motions made, questions put,
and the reports of committees heard.² The Clerk had the pow-
er of declaring the Court adjourned in the absence of the
Speaker, upon a vote of the House.³

The salary of the Clerk was about thirty pounds a year,
with an extra allowance for extraordinary services.⁴ These
wages were later increased, and the extras assumed quite res-
pectable proportions.⁵ Grants were also made to the Clerk
from time to time for furnishing stationery and for sending
expresses by order of the House.⁶

After the election of the Clerk of the House of Repre-
sentatives, the next step in the organization of the Assembly
was the decision on the Orders of the House for the coming
year. The orders of the preceding year were usually adopted,
viz: "The usual Orders of this House Read, and

"Ordered, To be the Rules and Orders of this House
during the Session and Sessions thereof,"⁷

1 "Resolved, That the said Adijah Dewey be Summoned by Warrant
under the Hand and Seal of the Clerk of this House, directed
to the Constable of Westfield, to appear forthwith before the
House to make Answer to the Complaint in said Information."
Journal, VI, 20

2 Ibid., 1769-70, p.164-166.

3 Ibid., 1769-70, p.95.

4 Acts & Resolves, X, 22, 63, 64, 117, 127, 200, 273, etc.

5 Ibid., X, 735 bis.

6 Ibid., X, 354, 725, 209.

7 Journal, II, 228.

Occasionally some minor changes in the Orders were made, but never was an entirely new body of Orders adopted throughout the provincial period.¹

Subsequent to the vote accepting the Orders of procedure, the Assembly customarily appointed Monitors of the House to ensure the observance of the Orders.² These officials were presumably chosen by an oral vote, or possibly through appointment by the Speaker confirmed by a vote of the House. It is uncertain just what the specific duties of these men were, but they could not have been arduous, since the Monitors were members of the House and sat regularly therein. Perhaps the Monitors correspond to a committee on rules at the present time.

The next matter turned to was the annual election of Councillors by the House, a part of the procedure of organization which was found in none of the royal colonies.³ "In the two houses voting separately a number of candidates from each of the sections of the enlarged province were nominated, and from these by a second ballot, taken in joint session, the correct number of councillors were selected. They were eighteen from the old colony of Massachusetts, four from Plymouth, three from Maine, and one from the territory between Sagadahoc and Nova Scotia,"⁴ and two from the province at large. Thus, the

1 Ibid., VI, 4. At the beginning of each session there is a reference to these Orders, but they are not given in the volumes of the Journal which are now available, nor can they be found in the Massachusetts Archives. It is questionable if they now exist.

2 For example: "Ordered, That Captain Chapin, Mr. Tucker, and Mr. Stone, be Monitors of the House, to take care that the Orders thereof be duly observed." Journal, II, 228.

3 Massachusetts was a semi-royal province, not royal. In the royal colonies, the Councillors were appointees of the Governor.

4 Osgood, I, 301. This representation was according to the provisions in the charter of 1691.

newly chosen House cooperated with the Council of the previous year in the election of the new Council.

The actual procedure in the House of Representatives may best be illustrated by quoting the Journal account thereof:

"A Message sent up to the Board by Mr. Remington, Capt. Hammond, and Mr. Porter, That the House are now ready to proceed to the choice of Councillors.

"Who returned that the Board are ready to join with the House in the Election.

"Ordered, That Major Savage, Mr. Lindal, Major Stoddard, Mr. Remington, and Capt. Wadsworth, be a Committee to carry up the Votes of the House for Counsellors, and assist in sorting and numbering them together with the Votes of the Board, and Report to the House the severall Elections that shall be made.

"The said Committee carried up the Votes of the House for Counsellors in the late Colony of Massachusetts Bay, until that Eighteen were chosen by a major part of the Voters.

"Then for the late colony of New Plymouth, and return'd that Four were chosen as aforesaid.

"Then for the late Province of Main, and returned that Three were chosen as aforesaid.

"Then for the Territory between Sagadahoc and Nova Scotia, and return'd that One was chosen as aforesaid.

"And lastly for the Persons dwelling in any part of the Province, and return'd that Two were chosen as aforesaid.

"And reported that the Names of the Persons chosen are

¹
as follows."

Upon the names of all who were thus elected the governor had the right of veto. In pursuance of this fact, the House "Ordered, That John Stoddard, Francis Fullam, and Jonathan Remington, Esqrs, wait upon his Excellency the Governor, with the afore-written List of the Counsellors or Assistants newly chosen for the year Ensuing, for his Excellency's Approval of the Persons therein^e named, to be given in Writing under his Hand."

"Addington Davenport and John Clarke, Esqrs, brought down the List of Counsellors newly chosen; there being entred therein as follows, viz.

"The within named Gentlemen were duly Elected (by the Council and Representatives) of His Majesties Council.

Attest. Josiah Willard, Secr.

And by his Excellency the Governour,

"I Negative Elisha Cooke, Esqr; the rest I Accept of,

²
SAMUEL SHUTE."

¹ Journal, II, 2 (May, 1718).

In later years, from 1758 to 1774, the Representatives became much more particular concerning the method of counting votes for the Councillors. In 1761, "in order that an exact and perfect Account be taken in numbering and sorting the Votes; the House move, that the committee (to be appointed for that purpose) sit at a separte [sic] table from the Board..." The Council agreed to this motion. Journal, 1761-62, p.6.

The next year advanced their demands "in order that an exact and perfect Account be taken in nybering and sorting the Votes, the House move, that the committee (to be appointed for that Purpose) sit at a separte table from the Board, and that no Election shall be declared 'till it has pass'd the Examination of one of the Tellers of each House at least; provided that if more than Eighteen have the Major Vote, the highest Eighteen be the Persons elected." To this the Council also agreed. Ibid., 1762-63, p.6.

In 1763, the Council consented to a provision: "That the several Votes be sorted and put into several Hats before they are counted." Ibid., 1763-64, p.6. This became the custom for a few years, and then mention of the procedure of using hats was dropped from the Journal accounts.

² Journal, II, 3.

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"A Message from his Excellency the Governour by James Otis, Esq; That the two worthy Members of this House now elected Counsellors may be sent up to take their places at the Council Board.

"The said Two Members, viz. Jonathan Dowse and Joseph Hammond, Esqrs. were sent up to the Board, accompanied by Capt. ¹Chambers, Mr. Remington, Mr. Lindal, and Capt. Bane."

Whenever any Councillors-elect were already members of the Assembly, their removal to the Council naturally left vacancies in the lower House. These vacant seats were filled through the medium of special elections for that purpose in the various towns which had lost their delegates in the House. These special elections were warranted by precepts sent from the House under the signature and seal of the Speaker.²

Vacancies caused in the Council by reason of the Governor's veto on a selection of the Court were also filled by special elections, in the House and Council.³ If vacancies appeared for any other reason whatsoever, they were to be filled by special elections at the first sitting of the next

1 Ibid., II, 3-4.

2 For instance in the above case, it was "Ordered, That Mr. Speaker issue a Precept to the Town of Charlestown, and another to the Town of Kittery, that each of them may send a person to Represent them in this House, in the room of Jonathan Dowse and Joseph Hammond, Esqrs; their former Representatives, now elected of His Majesty's Council." Journal, II, 5. See above p.40.

3 For example: "A Message from the Council by Edmund Quincey and Jonathan Dowse, Esqrs; that there is a Member wanting at the Board, which they are now ready to Joyn with the House in Electing."

"The House brought in their Votes accordingly, which were sent up by the Committee that had carried up the Votes for Counsellors on the day of Election of Counsellors.

"Who returned that Paul Dudley Esq; was chosen by a Majority of Voters." A committee of the House announced the choice to the Governor who gave his consent thereto in writing. Journal, II, 6, 7.

session of the General Court, in accordance with a term of the Charter of 1691. That document also rendered Councillors removable from office by vote of the Assembly. In such an event, presumably, the vacant seat at the Board would also be filled by special election.

No compulsion could be imposed upon a man to serve as a member of the Governor's Council contrary to his own wishes. A refusal of the office was almost a unique thing, but that it occurred at all shows the possibility of a person's declining. In June, 1764, Brigadier Ruggles, a member of the House expressed his disinclination to accept his election to the Board, where-¹ upon a new election was conducted to fill the vacancy.

The Councillors were paid from the public treasury by virtue of a law passed December 7, 1692. This act provided for the payment of these officials at the rate of five shillings per diem, including the time they spent in attendance and in travelling to and from the place of meeting of the General² Court.

The Governor usually deemed it advisable to accept the greater number of the Councillors chosen. Under Governor Dudley in the early period, "as the veto of the governor had³ been used in only one instance, the representatives had come to regard it as their privilege to elect whomsoever they chose to the council..." The Massachusetts Governor "was, however, in his relation to the Council in a more difficult position than any other provincial governor in America. In all the other

¹ Journal, 1764-65, pp.64-65, 67-69.

² Acts & Resolves, I, 100.

³ Governor Phips had vetoed Cooke. Kimball, Dudley, p.88, note.

colonies save Connecticut and Rhode Island the councils were appointed by the proprietors or the crown, on the nomination of the governor,...Dudley at once recognized the difficulties of his position and the anomaly of having the councillors depend for their seats upon the will of the House. In one of his first reports to the Board of Trade, he wrote in discouraging language concerning the cooperation of the Council in Military affairs. 'I am morally assured,' he declared, 'before I enter upon it, that I shall not obtain the Voice of one Councillor, for the fear of their precarious places depending upon the peoples voices and so her Majesties affairs here will unavoidably suffer till the Council here shall value their Duty more than their Situation or Depend absolutely upon her Majesties Appointment.' Three months experience in Massachusetts but convinced him that this method of choice was undesirable, not only because of the Council's subserviency to the House, but also because of the character of the councillors chosen.... It is not strange, therefore, that when Dudley found himself thwarted by the Council, he should have made use of his prerogative. This he did in 1703 by refusing to confirm five men as being of poor estate or disaffected to the government....

"In any case, Dudley was within his legal rights, and the House was forced to comply. Thus his control over the Council was partly due to his repeated use of the veto over the choice of councillors, so that he forced the House to elect a Council which should, as his instructions required, be 'well affected to the government. Not that all the councillors were

his supporters; but Dudley saw to it that none of the open enemies of the government or any persons implacably hostile to himself had seats... This liberal use of the right to refuse to confirm councillors precipitated an open breach with the House.¹"

Governor Dudley's policy in regard to the acceptance or rejection of Councillors was quite consistently followed by his successors throughout the period. Upon some occasions the Governor of the time approved all the Councillors chosen, at other times he negatived one or two.² In several instances just prior to the Revolution when the ill-feeling between Governor and Assembly was particularly intense, the executive³ vetoed a large proportion of the Councillors elected.

In cases of refusal by the Governor to accept Councillors-elect, the House could exercise discretionary power in determining whether or not to replace the refused men. True, they usually filled the vacant seats on the Board by special election;⁴ but occasionally they refused to consider the matter further,⁵ especially in the later period.

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At about this stage of organization, the House ordinarily appointed such standing committees as were needed to care for the business of the House.⁶

1 E.Kimball, Dudley, p.88-90.

2 Journal, passim.

3 May, 1768, six Councillors were vetoed; May, 1769, eleven Councillors were refused. Journal, 1768-69, p.7; and Ibid., 1769-70, p.10.

4 See above p.46.

5 For instance, in 1768. Journal, 1768-69, p.10; also Ibid., IX, 2.

6 See below, p.63 ff.

1. *Introduction*

2. *Objectives*

3. *Methodology*

4. *Results and Discussion*

5. *Conclusion*

6. *References*

7. *Appendix*

8. *Summary*

9. *Notes*

10. *References*

11. *Conclusion*

12. *References*

13. *References*

14. *References*

15. *References*

16. *References*

17. *References*

18. *References*

19. *References*

20. *References*

21. *References*

22. *References*

23. *References*

24. *References*

25. *References*

26. *References*

27. *References*

28. *References*

Among the lesser Officers of the House was the Door-keeper whose services the Assembly ordinarily shared with the Governor and Council.¹ This official was customarily referred to as the "Doorkeeper to His Excellency the Governour, the Honourable Council and this House", or as the "Doorkeeper to His Honour the Governour, and this Court."² Presumably he was an appointee of the Governor.² In addition to serving as guardian of the entrance to the Court-House and allowing only qualified persons to enter therein, the Doorkeeper was expected to send expresses anywhere within the province by order of the House, for the expenses of which he was reimbursed.³ His duties also consisted of keeping the House and Council Chambers in order, of caring for the clocks,⁴ and providing candles for lighting the rooms in winter and in the evenings.⁵ His salary varied from year to year, depending upon the extent of his duties, but was usually from forty to sixty pounds per annum,⁶ and was paid out of the public treasury of the province.

The Chaplain was another regular officer of the House. His appointment, however, was subject to no regular procedure.

1 When the Court was sitting at Concord in 1764, there was perhaps need for separate doorkeepers. Journal, 1764-65, p.11. When meeting at Boston Neck in 1721, the two Houses "Ordered, That three Men be appointed by this Court to stand Guard at the Door of this House to hinder any Person from the Town of Boston, Coming into the House (without License first obtained) whereby the Small-Pox may be brought among the Members of the Court..." Acts & Resolves, X, 105.

3 Ibid., X, 112.

2 Ibid., VII, 362.

4 Ibid., X, 200.

5 Ibid., X, 727.

6 Ibid., X, 22, 63, 117, 736.

Sometimes the same Chaplain served both Council and House,¹ having apparently been selected by the Governor. Otherwise² the House had their own Chaplain, whom they themselves elected. Probably the daily sessions opened regularly with prayers each morning.³ Moreover, the Chaplain usually preached the election sermons, which were afterwards printed for distribution throughout the province.⁴ Whether serving one or both Houses, the Chaplain was customarily granted a salary, to be paid from the public treasury,⁵ ranging from five to ten pounds per annum.

From time to time, the House appointed a Messenger for various purposes, but apparently only when need arose.⁶ As early as June 5, 1694, an act was passed in the Assembly regulating the compensation of the Messenger for that House,⁷ which was to be paid from the public treasury. He was to receive 3 shillings per diem while in attendance at the House; 3 shillings from each person on whom he served a warrant of the House of Representatives; 3 pence a mile for travelling expenses; 3 shillings per diem for the retention of prisoners arrested by war-

1 Journal, V, 309.

2 Acts & Resolves, X, 565 bis, 735.

3 The Journal gives very little evidence in this matter. One bit of information for June 8, 1721, is as follows: "Complaint being made against Phillip Tabor, a Member of this House, that he sat down in the House at the time of Prayer, and being asked by the Speaker the Reason for it, he said he could not joyn with them in Prayer when they called God our Father.

Whereupon the House,

"Resolved, That Phillip Tabor, be expelled this House, as not worthy to continue a member of it." Journal, III, 11; also p.123.

4 Acts & Resolves, X, 334.

5 Journal, VI, 209; Acts & Resolves, X, 564, 565, 735, 278, 325, 410; XI, 398.

6 Journal, 1763-64, p.200.

7 Acts & Resolves, I, 170-171; see also Ibid., IV, 297, 750.

rant of the Assembly; and 3 shillings upon a release of such a prisoner -- unless that person be a member of the Representative body.¹ At least once, however, a Messenger received his commission from the Governor.² While in attendance at the House the Messenger was frequently dispatched on local errands.³ At the end of the year the official presented a bill for services rendered and received a grant by resolve from the House in payment thereof.⁴

The Secretary and Treasurer of the Province were not, properly speaking, officers of the Assembly at all. The former was an appointee of the Governor or even of the King; whereas the latter was a civil officer appointed by the House,⁵ but not attached to it. Occasionally, however, grants of money were made to the Secretary for extraordinary services,⁶ in addition to his regular salary from the public treasury. The Treasurer was responsible to the House, and required to report thereto annually at least. His accounts were heard by the Assembly,⁷ which usually appointed a committee to audit his books.

² "About a week before the dissolution of this Assembly, Henry Emmes was appointed Messenger to the House of Representatives,

for which office it appears by the following entry in Sewall's Diary, he received a commission from the Governor and Council:

"Friday, February 23, 1693-94....This day Henry Ems the Baker had his name put into a commission to be a Messenger to the House of Representatives when sitting, and commission delivered to him in Council Chamber." Acts & Resolves, VII,

30, note.

³ Journal, VI, 18.

⁴ Acts & Resolves, X, 71.

⁵ Journal, II, 44.

⁶ Acts & Resolves, X, 63; see also Journal, I, 33.

⁷ "Mr. Treasurer Allen Attended the House with his Accompts of the Treasury, which were Read, and then he withdrew.

"Ordered, That Mr. Cooke, Mr. William Paine, Capt. Chambers, Mr. Remington, and Mr. Samuel Clapp, be a committee to Examine and Audit the Treasurer's Accompts, and inspect Vouchers of the Several Payments.

"And make Report to this House." Journal, I, 8. Also Ibid., II, 237-8.

1. The first part of the report deals with the general situation of the country and the results of the survey.

2. The second part of the report deals with the results of the survey in the different regions.

3. The third part of the report deals with the results of the survey in the different districts.

4. The fourth part of the report deals with the results of the survey in the different villages.

5. The fifth part of the report deals with the results of the survey in the different households.

6. The sixth part of the report deals with the results of the survey in the different families.

7. The seventh part of the report deals with the results of the survey in the different groups.

8. The eighth part of the report deals with the results of the survey in the different communities.

9. The ninth part of the report deals with the results of the survey in the different regions.

10. The tenth part of the report deals with the results of the survey in the different districts.

11. The eleventh part of the report deals with the results of the survey in the different villages.

12. The twelfth part of the report deals with the results of the survey in the different households.

13. The thirteenth part of the report deals with the results of the survey in the different families.

14. The fourteenth part of the report deals with the results of the survey in the different groups.

15. The fifteenth part of the report deals with the results of the survey in the different communities.

These records having been approved, the House "allowed" them¹ by resolve. The Treasurer was paid by resolve of the House from the public treasury, for his services, with frequent allowances² for extraordinary services.

Besides the officers already mentioned, there were others of quasi-official nature. From 1715 until the Revolution, the House, sometimes jointly with the Council,³ had a Printer. This printer published the Journal of the House, including the notes and resolves and elections, under the direction of the members from Boston.⁴ At various times he also prepared stationery for the Representatives, printed the Province laws and election sermons for distribution, and performed sundry other jobs of printing.⁵ For these services he presented accounts to the House, who paid him by resolve from the public treasury.⁶

At various times, also, the House employed men to perform unusual tasks of different sorts.⁷

1 Acts & Resolves, X, 18, 90, 171, 301, 605.

2 Ibid., X, 21, 63, 64, 117, 199, 324, 474, 564, etc.

3 Journal, I, 70, 73; and Preface.

4 "Ordered, that the notes of the House be Printed twice a Week, and that the Representatives of the Town of Boston be Desired to take care to have it done. And that so many be Printed that each Representative may have a Copy for his own Use, and a Copy to deliver to the Clerk of his Town for the Use of the Town." Journal, II, 231.

5 Acts & Resolves, X, 179, 180, 334.

6 Journal, II, 32, 139, 271, 276.

7 Ibid., I, 122, 167, 220; Acts & Resolves, X, 128, for an example.

Governor's Message

When the House had completed its organization and election of Councillors, the Governor delivered a Speech to the two Houses in joint session. The procedure in 1727 is typical of that usually followed: "A message from His Honour by Mr. Secretary, viz. Mr. Speaker, His Honour, the Lieutenant-Governor¹ directs the Honourable House forthwith to attend him in the Council Chamber.

"Mr. Speaker and the House went up accordingly and His Honour made a speech to the Court, of which Mr. Speaker obtained a Copy, and then with the House returned to their own Chamber."²

An address by the Governor usually was delivered at the beginning of every session of the Court. These speeches, especially the one at the May session annually, were rather important since they generally contained a statement of the condition of affairs in the province, and oftentimes recommendation of such legislation as the Governor thought imperative. The course of policy and legislation, under the administration, was thus strongly influenced by these speeches; and the program of business for the session was predetermined.

After having heard the Governor's speech, the House returned to its own Chamber. There, sometimes immediately, but almost always within a few days, they ordered the speech to be read for further consideration. Several readings were sometimes found necessary in order that the Representatives

1. The Governor had returned to England at this time.

2 Journal, IX, 119. On May 29, 1761, the House attended the Governor at the Province House, where his speech was delivered, because illness prevented the Governor from going abroad. Journal, 1761-62, p. 11.

might analyze its contents paragraph by paragraph. There might be open debate in the House,¹ or the message might be referred for closer examination to a committee appointed for purpose.² The latter was particularly true when the House desired to formulate a reply to a part of, or to the entire speech. Such return messages by the House were occasionally made, especially when the Assembly took exception to suggestions offered by the Governor. Replies were made to the Governor in special joint sessions,³ or were merely conveyed to him⁴ by a committee of the House appointed for the purpose.

In addition to the speech made at the beginning of a session, the Governor might deliver a special message dealing

1 "Upon Reading His Honour the Lieutenant-Governor's Speech at the opening of the present session, and considering that part of it which relates to the settling of a salary, the question was put, whether the House in consequence of the instruction referred to in His Honour's Speech will now come into the settling a Salary on him?"

It pass'd in the Negative." Journal, IX, 123.
2 Journal, I, 131; II, 168, 169-176; IX, 123.

3 June 7, 1717, "His Excellency the Governour's Speech Read again; and Mr. Speaker offered to the House a Draught of an Answer thereto, which was Read, and Voted by the House.

"Ordered, That....(3 men) Wait on his Excellency the Governour and Acquaint him that this House are Desirous to acknowledge his favour, in his Speech at the opening of this Court; and to know when his Excellency pleases the House shall attend him for that end.

"The said Members Attended the Order of the House, and Return'd answer, That his Excellency had Appointed to Morrow Morning."

The next morning, "Mr. Speaker and the House went up to the Council Chamber, to return Answer to His Excellency's Speech. And Mr. Speaker make[sic] a Speech to his Excellency as follows.....

"To which His Excellency was pleased to Reply.....

"And then the House return'd to their own Chamber." Journal, I, 192, 3, 195, 6.

4 November 21, 1729, the House, "Ordered, That a Message be sent up to his Honour the Lieutenant-Governour, to acquaint him of the aforesaid Vote....." Journal, IX, 123.

with specific matters at any time during the session. For example, on June 3, 1724, a special message was addressed to the House in reply to a request for information by that body.¹ All speeches of the Governor, however, received careful attention by the General Court and were never entirely ignored, whether action of the House ensued therefrom or not.

The process of organization of the House for business at other sessions than the first was a simple matter. If forty or more members of the Court were present upon the opening day of the session, the Governor was informed that a quorum was met, and the House ready to proceed with the business of the session. The Assembly then was summoned to the Council Chamber, heard the Governor's message, and returned to their own room.² According to the Charter of 1691, the House at this time was to replace any vacancies which had occurred in the Council. Otherwise, the organization was retained as it had been decided upon at the May session.

In the event that a quorum failed to appear at the appointed time, the Members present might agree to convene again the same afternoon or the following morning, or else the Governor might be notified and he would prorogue the Court for a few days.³ At the beginning of the fourth session in 1695, "It being queried, upon the law of the province for ascertaining the number and regulating the House of Representatives, whether the non-appearance to meet by adjournment do not discontinue the court (his honour proposing to call a new assembly)...⁴
"Resolved it in the negative."

1 Journal, VI, 22.

2 Journal. I, 46-47, etc.

3 Ibid., I, 68, 261.

4 Acts & Resolves, VII, 95.

LEGISLATION

Petitions and Hearings

A great deal of the time spent in session by the General Court, was occupied with the hearing and disposing of petitions presented by private persons. The numbers of these petitions continued to increase throughout the period. By 1759, fifty-nine petitions were introduced in the first session in the spring; and during the legal year 1761-62, there were no less than one hundred seventy brought to the attention of the Court. "These covered the widest range of subjects. Men asked the legislature for authorization to dispose of the land of their insane relatives, for permission to start lotteries..., to change their place of worship, - in short, they petitioned for anything they wanted, and their were both varied and curious." ¹

Some of the matters referred to were justifiably brought before the House, but by far the greater number dealt merely with petty affairs of local interest. The populace evidently believed even at that time in a "government for the people" literally. By 1719, because of the growing number of petitions which took up time rightfully to be spent on legislative matters, the House "Resolved, That for the future before any Hearing, be had upon any Private Petition or Controversy, A Sum of Money not exceeding Ten Pounds, as shall be ordered by the Court be paid by the Petitioner or Petitioners, to the Secretary for the use of the Government...." ²

This restriction, however, did not seem to be sufficient, for in 1736 the Assembly passed another act which provided that, with certain specified exceptions, all petitions

1 Harlow, 19. 2 Journal, II, 196.

ions must be introduced into the Court within fourteen days from the first date of sitting, and that in case a petition should be dismissed by the Court as vexatious or causeless, the respondent should be entitled to receive reasonable damages¹ from the complainant. This law doubtless tended to discourage the number of unnecessary and unimportant petitions, and to prevent private affairs from monopolizing a great part of the Court's time, particularly toward the end of each session, when public matters were impending.

Unfortunately, the mode of introducing petitions and by whom they were presented before the House, are two points² of information upon which little evidence may be found. It is certain that petitions might be sent down to the Assembly from the Council, having been introduced there first, granted a hearing, and sent down for concurrence or non-concurrence by the House.³ It may also be ascertained that petitions might be brought in by committees to which they had been referred, for further consideration in the House itself. Of the vast proportion of petitions presented to the House, however, it is impossible to determine the immediate source. Presumably all petitions were sponsored by one or more members of the⁴ Assembly.

Upon all petitions which were presented before them, the House took some action. They might refer a petition to a

¹ Acts & Resolves, II, 876.

² The Journal offers no information on these points.

³ For example, Journal II, 148, 153. These petitions oftentimes referred to the Council by the House in the first place.

⁴ The assumption is based on entries of this sort: "A Petition of Pelataah Glover in behalf and by the order of the Committee for Brimfield presented to the House and Read..." Journal, II, 135.

committee for report; they might act upon the memorial at once, postpone consideration of the plea until the next session or a future sitting, or place the bill on the table.¹

The House occasionally allowed a petition to be withdrawn, if not granted, thereby excusing the memorialist from the payment of any penalty.²

When the House decided to take action upon a petition, it was sometimes found necessary to appoint a time for a hearing of the matter. Such a hearing might be held before both Houses in joint session -- usually in the Council Chamber --, or before either House acting alone.³ A time for the hearing was ordinarily set by order of the House, and the persons against whom the petitions were leveled were summoned to be present with whatever witnesses were necessary. The burden of proof as to why the petition should not be granted, was laid upon these respondents. Persons might be summoned to appear by several methods. The House might order the petitioners to serve the respondents with a copy of the petition "that they may give their Reasons why the Prayer of the Petition should not be granted;"⁴ the Messenger of the House might be directed to summon them;⁵ or the Assembly might order that they be called before the Court by a warrant issued under the hand and seal of the Clerk.⁶ Witnesses were usually summoned by the latter method.⁷

1 Journal, II, 116, 119, 152, 170, 200; VI, 13, 27, 67; 1758-59, p.31.

2 Ibid., 1758-59, p.156, 180; 1772-73, p.254.

3 Ibid., I, 21.

4 Ibid., V, 12, etc.

5 Ibid., VI, 19.

6 Ibid., VI, 20.

7 Ibid., 1768-69, p.22.

The exact procedure followed in hearings on petitions is not at all certain. Apparently, however, when the appointed time came the House voted that they proceed to the matter determined upon. The pleading parties were, upon motion, admitted to the floor of the House, and after the Clerk read the petition aloud, offered such evidence as they saw fit. They then withdrew and the House took action in the case, sometimes committing the matter, or making instant decision,¹ or referring settlement to some future time.

Occasionally the House ordered that persons appear before the Court merely to furnish information for that body. Upon appearing at the door of the Chamber, such persons were admitted before the Assembly by vote of the members, and were required to answer such questions as the Speaker or any delegate might ask of them. They might also make independent statements if they wished. After giving the desired information, these informants then withdrew, and the House would take such action as it seemed proper.² The Assembly could summon both public officers and private individuals before them, but formal orders were usually sent to officials when their presence was desired.

Breach of privilege of the members of the General Court was a reason for a different type of hearing held by the House of Representatives.³ In such a case the person who

1 See Journal, I, 264; V, 228; VI, 27; 1758-59, p.173.

2 Journal, V, 228; 1758-59, p.173; 1766-67, p.101, 115-116, 267, 274.

3 The question of what were the privileges of the House does not come within the scope of this paper. In an act of 1694-95, disallowed by the Privy Council, the Assemblymen claimed "all the liberties and privileges of an English assembly." Acts & Resolves, 1694-95, ch.III. For further information on this matter see Ibid., I, 65, 89-90, 90 note, 130, 322, 545; VII, 33-34; VIII, 3+1.

had offended was sent for by the Doorkeeper or Messenger of the House, or by a Member. He was heard by the House and they then took such action as they saw fit. Usually an Apology¹ was satisfactory and this was voted to be sufficient.

Sometimes, however, the matter became more serious and the offending party suffered a penalty more severe.²

1 June 16, 1763, it was reported to the House that one of its members had been insulted by a certain Francis Miller. "The House after a debate, Ordered, That the Messenger of the House take him into Custody and bring him before the House, which was accordingly done: And Mr. Miller asked pardon of the House, and every Member of it, for the Insult he had offered to one of their Members, upon which he withdrew. And the House directed his Attendance again; when Mr. Speaker informed him the acknowledgment was satisfactory: And he was discharged by the House." Journal, 1763-64, p.113-114. See also Ibid., I, 20-21, 29.

2 The most interesting case involving breach of privilege was that of the "Monster of Monsters", a pamphlet written in 1754.

"When the General Court met, the House of Representatives resolved that this pamphlet was a false and scandalous libel, reflecting upon the proceedings of the House in general, and on many worthy members in particular, in breach of the privileges thereof, and ordered it to be burnt by the hands of the common hangman. It was then resolved that Daniel Fowle, the printer, should be taken into custody, who, after examination was committed to the common gaol in Boston." Three other men were also arrested. "Mr. Tyler (the supposed author), when brought before the House, moved for counsel, which was refused; and upon his declining to reply further than that he was not obliged to accuse himself, he was ordered to remain in custody, and without bail."

Two days later, Mr. Tyler, pleading the distressed circumstances of his family, was permitted to return to it upon giving his word of honour to the House, that he would be forthcoming when requested by them."

Fowle, for his part, "denied their right to commit for his supposed offence, unless in the case of their own members: and in addition to this, the Speaker's warrant directed the Keeper of the gaol to detain him there until the further order of the House of Representatives, omitting the usual clause, or until otherwise discharged by order of law...."

"On the 29th (of October), his wife having been thrown into fits to the endangering of her life, he stated a request to the Speaker that he might be dismissed on this account, and that he should be ready to wait upon him whenever the Speaker might have occasion for him. He was then brought before the House, reprimanded for publishing the libel, and ordered to be discharged from the gaol upon paying the costs."

Then, however, he commenced an action against the Speaker of the House and the gaoler. But the new House voted that this power of commitment had long been exercised; that the House

(cont.)

Hearings similar to those in cases of breach of privilege, were conducted in order to examine various charges brought against members of the House. Such charges usually involved a questioning of the moral characters of members, their religious principles, disobedience to the orders of the House, or a contemptuous or contrary attitude toward the government. The following instance well illustrates the procedure in such cases: on June 1, 1715, "Some of the Members Inform'd the House that Mr. John Randall, who is return'd Representative of the Town of Rochester, is a Profane person, and stands Convict of Scandalous Immorality's.

"Mr. Randall had Opportunity given him, to make his defence. But he express'd himself unconcerned to clear his Reputation.

"Whereupon he was ordered to withdraw.

"The Question being put, whether the House esteem the said Mr. Randall to be a Person worthy to Sit as a Member of this House?

"It pass'd in the Negative.

"Ordered, That the said Mr. John Randall be Expell'd this House.

"The said Mr. Randall was again called into the House.

"And Mr. Speaker acquainted him with the Vote the House had pass'd. And that he was Expell'd the House. Whereupon he immediately Departed the House.

were the judge of breach of privileges; and that it was the duty of the Speaker to issue his warrants according to the orders given, and of the Messenger and Gaoler to carry them out. A committee was appointed to defend the suit of Fowle which, after dragging on for two years, was decided by the Superiour Court in favor of the defendants.
G. R. Minot, History of Massachusetts, I, 206-212.

"Ordered, That..... the Town of Rochester... be Reprimanded for abusing their privilege, in Electing and Sending¹ a person of such ignominious Character to Represent them."

The House had the authority to order that one of its members be taken into the custody of the Messenger. Such an order was issued under the hand and seal of the Speaker.² Sometimes a member requested that the ^{House} dismiss him, because he had been appointed to some other position in the government or for some other reason. Such permission to leave the Assembly³ apparently was customarily granted.

Committee System

Whether the committee system of the House of Representatives was entirely of local origin is rather doubtful.⁴ The procedure of the Court was certainly somewhat similar to that of the House of Commons, yet the Massachusetts Assembly does not seem to have consciously imitated that body as did the legislatures of Virginia and New York. The probable explanation is that in Massachusetts, they knew of the methods used in the House of Commons and adapted them to their own use in a modified form. This is very plausible in view of the

1 Journal, I, 10. Upon another occasion a member of the House was expelled because he "seldom Attends the Publick Worship of GOD, but obstructs the Settlement of an Orthodox Minister in the said Town; And has since the last Sessions of this Court been Presented, Convicted, and Fined, for the Profanation of the Lord's Day; and has taken his name from the last named Petition, after he had signed it." Journal, I, 146. See also Ibid., III, 11, 123; also above p.51, note 3.

2 Ibid., VI, 447-448, 452-453.

3 November 12, 1723, "A Motion being made by Mr. Jabez Fairbanks, Representative of the Town of Lancaster, for a Dismission from this House, he being lately Commissioned by his Honour the Lieutenant-Governour, to Command some part of the Forces Westward.

"Ordered, That the said Mr. Fairbanks be Dismissed from attending his Duty in this House, and he be accordingly Discharged, and that Mr. Speaker Issue forth a Precept to the

fact that the Journals of both Houses of Parliament were in the Court-House at Boston.¹ There is, however, no definite mention of direct emulation of the House of Commons by the Assembly in the Journal of the House of Representatives, so far as is known.

From time to time, the House would resolve itself into a committee of the whole. This was done very seldom, and then only for the purpose of dealing with unusually important business, such as a memorial to the Crown, the issuing of bills of credit, or some other vital matter. The procedure was as follows: the House would vote that at some future time it would resolve itself into a committee of the whole House. When that time arrived it would so resolve itself, having first chosen a Chairman. Then the Speaker would leave the chair, and his place would be taken by the Chairman. When the proceedings of the Committee were finished, the Speaker would return to the chair, and the Chairman would report for the Committee. Sometimes such a committee of the whole House would find it necessary to hold several sittings before reaching a decision on a given matter. The Journal refers to such a committee as a "Committee of the Whole House", or as a "Grand Committee", or simply as a "Committee".²

In Massachusetts, "as in the case of many other assemblies, the greater part of the work was concerned with petitions."³ Hence, much of the business of the House could very

Select-men of Lancaster, to assemble that Town in order to choose another person in his Room...." Journal, V, 226.

⁴ Harlow, p.19-20. declares that the "rise of standing committees is interesting, because they were clearly a local development."

1 See above, p.12.

2 Journal, V, 217-218; VI, 98, 102-103; 1761-62, p.116-117; 1773-74, p.27.

3 Harlow, 19.

efficiently be disposed of by committees rather than by the House in open session. So frequently as to become a custom, Committees on Petitions were appointed by order of the House¹ at the beginning of the first session each year. Very often "instead of relying upon standing committees to perform the routine work in connection with this heterogeneous mass of business, the House of Representatives turned it over to separate select committees."² As a rule, there was no fixed practice with regard to the use of standing committees. Regularly from 1715 to 1735 a standing committee for petitions was appointed at the opening of each May session. This committee usually consisted of from three to five members, and considered such petitions as were referred to it by the House.³ In 1762, "seven different standing committees were appointed, each of which was expected to handle petitions relating to a certain definite subject. These committees were brought into existence.... to enable the House to transact its business more expeditiously, and their names bear evidence of their local origin. ---They were appointed to consider petitions of sick and wounded soldiers, of those captured in the war, of men who had lost their guns, and of those who had for some reason failed to get their wages; the other three were to deal with petitions regarding the sale of lands, rehearings of law-suits, and requests for pensions."⁴ During the next two years

1 Journal, passim.

2 Harlow, 19.

3 Journal, I, 4; VI, 7, etc.

4 Harlow, 20. Also Journal, 1761, p.9, 20.

several of these committees were dropped, and in 1765 and 1766 none were appointed. From 1767 to 1774 there was only one-- that for petitions regarding the sale of land.¹ Standing committees, however, were not part of the regular machinery of the House, but were appointed only when there was need for them. Thus, from time to time standing for Muster-Rolls -- usually of five members -- were appointed.² Of the seven committees created in 1762, five, as we have seen, were for the purpose of considering extraordinary matters. "The standing committees had been appointed to deal with questions growing out of the war, and when it was over, petitions on those particular subjects ceased to be burdensome",³ and a number of committees were abandoned. This does not necessarily mean that when standing committees were first used, in 1715 or before, that they were not at least suggested by the English system.

Whenever the House wanted more information on any subject, which did not lie within the field of any standing committee, a small committee would be appointed to deal with the matter. Select committees were thus created for all sorts of business: to inspect the Treasurer's accounts, to report a bill, to examine a petition and make a report, to help the Governor carry on the war, to lay a boundary between two towns, to carry up the votes for the Councillors, to convey a message to the Governor, -- in fact, for any purpose which the House desired. These committees rarely consisted of less than three

¹ Harlow, 30, 21. Also Journal, 1762, pp.13, 27; 1763, p.11; 1764, p.12, etc.

² Journal, I, 4, 79; II, 6, 115, 231; III, 8; IV, 6; V, 8, VI, 7.

³ Harlow, 20-21.

⁴ Journal, I, 4, 8; VI, 13-14.

or of more than seven. "The most common were those to reply to the Governor's speech, to audit the public accounts, and to report on temporary laws which needed to be renewed. Thus the regular recurrence of certain definite work gave rise to a committee to attend to it."¹

In the early period the appointment of committees was quite haphazard, but in the later years more orderly methods were used -- even the ballot just before the Revolution. As to the procedure followed in committee meetings, little of a definite nature may be said. Sometimes they seem to have been slow about rendering their reports, for they would be ordered by the House to sit forthwith. "In Massachusetts, they met in the 'upper rooms' of the old state-house, probably on the third floor, -- during the regular sessions of the assembly, provided, of course, that there was a quorum without them. When measures of special importance were under consideration, the committees would be called in."² These committees were empowered to summon parties before them. But as to how their chairmen were appointed, or whether they always carefully investigated matters assigned to them, it is quite impossible to say.

The report of a committee might be oral or written, depending on the nature of the matter under consideration. Sometimes, when an oral report was presented, the House ordered that it be reduced to writing.³ When the report was merely verbal, it was usually made by the chairman of the com-

¹ Harlow, 21.

² Ibid., 113, 114. See also below, p.

³ Journal, 1758-59, pp.98-99, 219, 225.

mittee from his place in the House.¹ When it was written, it was read by the chairman in his place and then delivered in at the table.² Upon one occasion the Speaker of the House made a report for a committee of which he was a member, but just what the procedure was then, the Journal does not show.³ At least once a committee appointed to consider a petition laid it upon the table without report, whereupon the House "Ordered, That the Petition lie on the Table for further evidence."⁴

As a rule the House adopted the recommendations of its committees, although there was no obligation for it to do so. Although no records of the committees at work exist, it is reasonable to believe that "legislators of the eighteenth century were by no means lacking in an understanding of devious political methods, and it is probable that in their committee meetings they worked out schemes which would make interesting reading today."⁵

"In Massachusetts after 1766, and to a certain extent before, the political destinies of the House of Representatives were watched over by a powerful little group of members, the leaders of which were the Boston delegation and their friends. The names which stand out most conspicuously are Samuel Adams, Thomas Cushing, James Otis, and John Hancock of Boston, Hawley of Northampton, Sheaffe of Charlestown, together with Bowers, Dexter, and Partridge. Of this aggregation the chieftain was Adams, a man who should hold a position in the front ranks of American political strategists."⁶

1 Ibid., 1758-59, pp.151, 157.

2 Ibid., II, 179; 1758-59, p.75.

3 Ibid., 1770-71, p.16.

4 Ibid., 1758-59, p.59.

5 Harlow, 104.

6 Ibid., 25.

1. The first part of the paper discusses the importance of the study and the objectives of the research.

2. The second part of the paper describes the methodology used in the study and the data collection process.

3. The third part of the paper presents the results of the study and discusses the findings.

4. The fourth part of the paper discusses the implications of the study and the conclusions drawn from the research.

5. The fifth part of the paper discusses the limitations of the study and the areas for future research.

6. The sixth part of the paper discusses the contributions of the study to the field of research.

7. The seventh part of the paper discusses the practical applications of the study and the recommendations for practice.

8. The eighth part of the paper discusses the ethical considerations of the study and the measures taken to ensure ethical standards.

9. The ninth part of the paper discusses the acknowledgments and the funding sources of the study.

10. The tenth part of the paper discusses the references and the sources used in the study.

Bills and Resolves

The introduction of bills into the House is another point of information in regard to which the Journal leaves much unstated. As far as can be ascertained, bills were never presented in the House without the consent of a majority of the members, unless they were brought down from the Council. The most usual mode of introduction of a bill was by a committee. Committees were sometimes given permission¹ to bring in such bills as were proper to be enacted. At other times joint commissions of the House and Council were² empowered to propose legislation.

The practice of appointing a committee to formulate a particular bill, however, was quite common. Such a bill might result from a petition presented to the House: "A petition of John Marion and 37 others, Cordwainers in the Town of Boston, presented to the House and Read, praying, That a law be made prohibiting the Exportation of Sole Leather, and the Killing of Calves before they are a Month old, for reasons therein mentioned." Whereupon a committee was appointed to prepare a³ bill; and a few days later the bill was reported to the House. Usually the Journal does not tell whence the original demand for legislation came, but merely gives a record such as: "Voted, That...(five men) be a Committee to project and prepare a Bill for the better Observation of the LORD'S Day, and make a report thereof."⁴ Or as this: "Ordered, That.... (three men) be a Committee to prepare and bring a Bill for preventing the Des-

1 Journal, I, 23.

2 Ibid., VI, 220-221. Neither the Committee of the House, nor that of the Council were standing committees. See also Ibid., VI, 13-14.

3 Ibid., II, 150, 159; see also Ibid., II, 190.

4 Ibid., VI, 33.

struction of Deer." ¹ Occasionally the House would determine exactly what a bill should provide before referring it to a committee. This was especially true in regard to legislation on financial matters. ²

The preparation of a bill was usually entrusted to a committee of from three to five men. ³ Occasionally, however, the matter was placed in the hands of one member: "On a Motion made and seconded, Ordered, That Mr. Porter of Hadley be directed to bring in a bill for incorporating the plantation called Road-Town into a Township." ⁴ Or: "A Motion being made by Joseph Parsons Esq; Asking leave to bring a bill for the Preservation of Pine Trees:

"Ordered, That Mr. Parsons have leave to bring in a Bill for the Preservation of Pine Trees." ⁵

Often the House refused to appoint a committee or to grant permission to bring in a bill: "The ^{House} Re-assumed the Consideration of the Tax-Bill; -- and after a Debate thereon, the Question was put,

"Whether it be the Mind of the House to appoint a committee to Prepare and bring in a Bill for taking a new Valuation of Estates thro' the Province?

"And it pass'd in the Negative." ⁶

Again: "The Question was put, Whether it be the mind of the House, to give the Members for the said Town (of Boston) Liberty to bring in a Bill...? And it pass'd in the Negative." ⁷ Thus

1 Ibid., 1758-59, p.49.

2 Ibid., 1761-62, p.28; 1769-70, p.170, 181. For further illustrations see Ibid., II, 140; 1758-59, pp.28, 31, 130; 1763-64, p.18.

3 Ibid., VI, 13-14.

4 Ibid., 1761-62, p.65.

5 Ibid., I, 15; also Ibid., 1762-63, p.16; 1763-64, p.246.

6 Ibid., 1758-59, p.31.

7 Ibid., 1758-59, p.52; also Ibid., 1762-69, p.74, 86; 1770-71, p.93.

an attempt to pass a bill might be crystallized even before the first reading.

"Bills might originate with the Governor, the Council, the Speaker, a committee or an individual member of the House, but in practice the last two usually initiated bills, the House generally appointing them for the purpose." Money bills had to originate with the popular body and there the Council were not allowed to amend, though it could and did amend other bills.¹ A large number of bills came to the House from the Council, where they had been passed on first. Such bills were already engrossed in the records. All manner of legislation except money bills could be presented to the House in this way.

It was a rule of the General Court that a matter should be brought up only once in the same session unless the rule was dispensed with.² Old bills, however, occasionally found their way into the House. For example, on January 20, 1755, the House voted to take into consideration a bill upon which it had passed the year previous, viz:

"Ordered, That the Secretary be directed to attend the House.

"Who attended accordingly, and brought down the said Bill, and laid the same on the Table; and informed the House, That the Board had non-concurred the Vote of the House Thereon."³

There was considerable variation in the process of enactment of a bill after its initiation into the House. Nearly always three readings and an enacting clause were necessary

1 Cambridge History of British Empire, I, 432.

2 Documentary History of Maine, XI, 426.

3 Journal, 1758-59, p.205.

for the passage of a bill. In 1719, however, a number of bills were engrossed and sent up for concurrence by the Council after two readings and an enacting clause had been passed.¹ It was possible to have all three readings of a bill at the same time, two at one time and the third at another, or all the readings at separate times. In the last eventuality, the intervals between the two readings might vary from an hour or two, to several weeks.² Debate concerning the bill might occur upon any reading, or upon each reading of the bill. At the time of the first reading, a bill might be assigned a time for the second reading, or merely laid aside for the time being. June 13, 1758, a bill was read for the first time and the House "Ordered, That the Bill have a second reading at three o'clock Afternoon."³ Or the bill might be deferred indefinitely or to the next session for a second reading.⁴ Or it might meet its demise then and there in the following manner: "A Bill Intituled... Pass'd at the Board to be Engrost, and sent down for Concurrence. Read and,

"The question being put, Whether the Bill be Read the 2d time?

"It pass'd in the Negative."⁵ Debate evidently occurred on the first reading in this case, but sometimes not any debate was had on the reading of a bill, viz: "A Bill Intituled... Read."⁶

The second reading of a bill usually decided its fate. At that time a bill might be assigned a third reading; it might be referred,⁷ it might be committed to the committee of its

1 Ibid., II, 164, 165, 167, 190, 197, 198,

2 Ibid., I, 11-12, 120, 177-178, 190, 212; 1758-59, pp.34-35, 53, 281, 283.

3 Ibid., 1758-59, p.55.

4 Ibid., 1758-59, p.253.

origin or to a new committee;¹ or the House might definitely refuse a third reading.² Debate on a bill usually took place on the second reading.

From time to time the House reconsidered the vote taken upon the second reading, viz: "A Bill Intituled... Read a 2d time. And the question being put, Whether the Bill be Read a 3d time?

"It pass'd in the Negative." But two days later it was "Ordered, That the Vote pass'd last Monday, That the Bill Intituled.... Should not have a third Reading, be Reconsidered." And the following day the bill was read a third time and passed to be engrossed.³

Bills were usually passed upon their third reading, whereupon they were ordered to be engrossed and, if they had not already been before the Council, were sent up for concurrence by that body.⁴ Sometimes, however, a debate took place and they were ordered not to be engrossed.⁵ After a bill had passed both Houses and had been engrossed, the process of enactment was completed by the House passing an enacting clause to be attached to the bill, whereupon the bill became a law. For example: "An Engrossed Bill... Read, and

"Resolved, That the Bill do Pass to be Enacted."⁶

Amendation of a bill might be accomplished in a number of ways. The most usual of these was by a committee appointed

5 Ibid., II, 164.

6 Ibid., II, 164. No further action on the bill was taken at this time.

7 Ibid., II, 158, 159, 233 and passim.

1 Ibid., II, 142, 194; 1758-59, p.28, '92-94, 180, 229.

2 Ibid., II, 162;; see also 187.

3 Ibid., II, 205, 209, 211.

4 Ibid., VI, 42, 49.

5 Ibid., II, 203; VI, 157; 1761-62, p.141. Presumably the Clerk of the House engrossed such bills as originated there.

6 Ibid., I, 154.

for the purpose after the second reading. After the bill had been engrossed and had been sent up to the Council, the latter body might propose one or more amendments, and the House might agree to these or not as it saw fit. "If the two bodies disagreed, agreement might be reached by adjustment of conference, or the Bill might be abandoned altogether."¹ Sometimes the House would agree to the proposed amendments and then suggest others, so that the bill might be sent back and forth several times before a final agreement could be made.² Occasionally the House would decide upon an amendment when an engrossed bill came up for an enacting clause, although such an amendment seems to have been of a minor type.³ Amending a bill was usually called "taking it into a new draught."⁴

When finally passed by both Houses, bills were sent to the Governor for his approval. This was entirely in keeping with the provision of the Charter of 1691, which stated that the Governor should exercise an absolute veto over all acts of government. The sanction of the Executive might be indicated at once by a message to the House; it might be given when the House went up to be prorogued or dissolved; or it occasionally was delayed until the session had terminated.⁵

Even though the Governor might express his approval of legislation passed by the General Court, there was still a further check on the independence of the Assembly, in the form of the device of compulsory royal confirmation or disallowance

1 Cambridge History of British Empire, I, 432.

2 Journal, II, 145-146, 190, 192, 194, 197;;VI, 179; 1768, p.42.

3 Ibid., 1769-70, p.119; 1766-67, p.328-329.

4 January 28, 1762, the Council sent down a bill. "Pass'd in Council as taken into a new Draught. Sent down for Concurrence.

"Read and concurred, as taken by the House in their new Draught.

"Sent up for Concurrence...." Journal, 1761-62, p.207.

5 See below, p.114. Also Journal, XII, 79, 80.

The first part of the report deals with the general situation of the country and the progress of the work. It is followed by a detailed account of the work done during the year, and a summary of the results. The report is divided into two main parts, the first of which deals with the general situation of the country and the progress of the work, and the second of which deals with the work done during the year and the results.

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The first part of the report deals with the general situation of the country and the progress of the work. It is followed by a detailed account of the work done during the year, and a summary of the results. The report is divided into two main parts, the first of which deals with the general situation of the country and the progress of the work, and the second of which deals with the work done during the year and the results.

of the acts passed in the colony. This constant threat of disallowance of legislation by the King proved an efficient form of colonial control. The Massachusetts Charter provided that all laws passed by the two Houses of the Legislature and confirmed by the Governor, must be sent to England at the first opportunity, for review by the King and Privy Council. Those laws which were disallowed within three years were to become null and void in the colony, while all others were to be in force until repealed by the Assembly -- if ever. Moreover, the royal instructions to the Governors ordered that copies of all acts, each bearing the public seal of the province, were to be forwarded both to the Privy Council and to the Board of Trade within three months (or as soon as possible) after passage,¹ and that duplicates were to be sent by the next conveyance.

The principle of review of legislation was probably neither unwise nor objectionable, per se, but the use of the disallowance by the English authorities, imbued as they were with mercantilist principles, was altogether too rigid. Such insistence that the colonial laws should conform absolutely with the laws of England, did not allow for the changing conditions, needs, sentiments of the New World. "In the earlier period, it prevented the colonists from passing hasty and ill-considered legislation that was often obscure, loosely worded, and even technically poor and contradictory, and served to improve legislation and to prevent local retaliatory measures in matters of general concern."² But as the years passed, conditions changed while the English attitude toward the colony

¹ Mass. Historical Society, Collections, 3d Series, vol. IX, p.103.

² Cambridge History of British Empire, I, 423.

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remained stationary, strongly implanted in the midst of worn-out economic principles.

The consequence of this tremendous hindrance to local autonomy was that the colonists conceived new methods of passing measures of local administration. These were the House order and the resolve. They were but two of the many devices by which the Assembly fought the royal prerogative when it seemed to encroach too strongly upon their privileges. The "order" seems to have been used principally in matters of strictly local concern, -- in the Assembly itself or in the province. It was less formal than a bill and usually consisted merely of an expressed vote of the House. Although the order was customarily sent up to the Council for concurrence, its purely local nature probably prevented any non-concurrence on the grounds of encroachment on the royal prerogative.

The resolve was a mode of legislation original in Massachusetts's Assembly. At first it was utilized for any purpose, but became by 1718 or 1719 the principal method of passing money measures which were not subject to amendment by the Council. On November 19, 1719, for instance, the House "Resolved, That the Sum of Two Thousand Pounds of Bills of Public Credit on this Province, be further and **forthwith** made.....

¹
Sent up for Concurrence." Such a resolve had to pass the House only once, but as in the case of a bill, had to receive the consent of the Council and Governor, but were not subject to review by the Privy Council. (An order of the House might, on the other hand, be of the type that required the consent of the Council and Governor, or the type which did not.) In

1729, the Privy Council condemned the custom of making ap-¹propriations in the form of resolves as unconstitutional, but the practice was not discontinued.

The Massachusetts House of Representatives also from time to time passed laws of short time limits, as another means of nullifying the effect of the royal disallowance. Since the Privy Council was not always expeditious in taking action upon the laws sent to England for review, the Assembly could thus pass acts to be in force for short periods and renew them often enough to render the checking effect of the disallowance ineffectual. This led to the inclusion in the Governor's instructions of an order that all acts of legislation must contain a suspending clause which would postpone the enforcement of each act until it had been approved by the Privy Council. In the days of bitter rivalry between the Governor and the Assembly, needless to say, this instruction was quite generally disregarded by the House. Moreover, the General Court very often re-enacted as new measures laws that had been disallowed by the Home officials. This tendency to ignore the desires of England constantly increased as the Revolution approached.

Method of Voting

Just what method of voting was customarily carried on in the House, it is difficult to say, for the Journal gives practically no indication. In the period from 1715 to 1735, especially, it is almost impossible to discover anything in regard to the matter. It is known that written ballots were used in the election of the Speaker, the Clerk, the Councillors, and certain other officers,² but how the members expressed

¹ Acts of Privy Council, Colonial, 1720-1745, p.254
² Journal, II, 142.

themselves on ordinary voting may only be conjectured. Just how little is told may be illustrated: June 13, 1719, there was brought into the House "A Report of John Chandler in behalf of the Committee appointed May 1718.... Sent down from the Board, pass'd on there...

"And the question being put, Whether the House Concur in Accepting the said Report?

"It pass'd in the Negative."¹

And even in the period from 1758 to 1774 the Journal accounts are very meagre. No evidence is given as to the usual method of voting and it is only when the vote was by yeas and nays, something not recorded in the earlier period, that any record was made. The first indication of this mode of voting seems to be noted in the Journal for October 12, 1758: "It was then moved and seconded by divers Members, That the House would Reconsider their Vote, for Mr. Agent Pollan's being impowered to receive the late Parliamentary Grant in Behalf of this Province. -- And after a large Debate was had on the Affair, the previous Question was put, Whether in taking the Mind of the House, it be done by Yeas and Nays?

"Resolved in the Affirmative.

"The question was then put, Whether it be the Mind of the House that Mr. Agent Pollan should be the Receiver of the late Parliamentary Grant? And it pass'd in the Negative.

Yeas	(38 Nays	2
(34 names)	(38 names)"	

"Though in general the Speaker could vote, he rarely exercised the privilege..."³ Whether he voted in the early

¹ Journal, II, 142.

² Ibid., 1758-59, p.96-97; see also Ibid., 1761-62, p.224-225, 319-320; 1763-64, p.254-257; 1764-65, p.206; 1765-66, p.215.

³ Cambridge History of British Empire, I, 431.

period is not indicated in the Journal, but in later years there were at least two occasions when he cast a vote, once in 1766 and again in 1768. In neither case, however, did he vote to break a tie. On December 5, 1766, there was a vote by yeas and nays. "And the Speaker being asked, declared on the Side of the Yeas.

"Yeas 53

"Nays $\frac{35}{88}.$ 1

In 1768 the procedure was similar, although the vote was more one-sided being eighty-two to one. In this case also the Speaker cast his vote with the yeas.²

Whenever unusually important business was about to be considered by the House, the Messenger was often sent to call in the members, especially as we have seen, those who were sitting in committee meetings.

Proceedings were conducted secretly until after the middle of the century, when galleries....were built...for the accomodation of such of the public as the members might invite to attend. These galleries, however, might be cleared at any time that secrecy should be desired in the proceedings of the House. On June 2, 1773, "the House was informed by one of its Members, that he had matters that greatly concerned the Province to communicate with the leave of the House. And the same Member moved that the Galleries be cleared.

"Upon a Motion, Ordered, That the Members be enjoined to attend.

1 Journal, 1766-67, p.209-210.

2 Ibid., 1767-68, p.193-199.

"Then Mr. Adams acquainted the House....."

Upon one occasion when an unusually important matter was brought up for consideration, in order that the members might have better means of informing themselves, the House "Upon a Motion, Ordered, That the Printers to this House lay on the Table To-Morrow at Ten O'Clock, a sufficient Number of the Resolves thereon reported to the House by the Committee, for the Perusal of the Members.

"Ordered, That the further Consideration of the Report of the Committee, be referred till Tomorrow at Four O'Clock afternoon."² The next day the printers brought in the printed copies of the letters and resolves, and the House, "Upon a Motion, Ordered, That Mr. Adams carry up to the Honourable Board one of the Copies of said Letters for each Member of the Board."³

At least once during the period, several members of the House were allowed to change a previous vote made on a question. June 17, 1773, four men, "who gave their voices against the Resolve passed Yesterday.... declared in the House that they had upon further Consideration alter'd their Minds, and mov'd that their Names might be enter'd in the Journal in favour of said Resolves."⁴ And the House quite frequently re-considered a vote. For example, on November 24, 1724, "A Mo-

1 Journal, 1773-74, p.26. In November, 1724, when there had been some trouble in regard to disclosure of what had transpired in the House, it had been "Voted, That Mr. Speaker, Mr. Wainwright, and Mr. Lewis, be a Committee to Project and Prepare some proper Vote the better to support the Honour and Dignity of the House; and to prevent the disclosing or discovering A-broad of any Debate that may arise and happen in the House," And two days later the House "Resolved, That if any Member of this House shall Disclose, Divulge, or make Publick the Debates or Secrets of the House, which tends very much to the Obstruction of that Freedom and Liberty of Speech so necessary for the Good and Welfare of the Province, he shall be lyable to such Censure as the House shall think proper." Journal, VI, 135,137.

2 To give the members time to read the papers mentioned.

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tion being made and seconded by several Members that the House would reconsider their Vote of the 17th Curreant.... And the Question being put, Whether the House would reconsider the said¹
Vote? Resolved in the Affirmative."

Instructions from Constituents

"The practice of instructing the representatives of the town (of Boston) in the General Court was early adopted, and occasionally, and often annually, continued through every period of colonial history. In these instructions, not only objects of temporary and local interest were pressed upon the attention of their representatives by the town, but views and feelings of the inhabitants of a general nature were indicated, and their sentiments concerning municipal and colonial rights unequivocally expressed. -- The same direct and jealous spirit, manifested in the votes of the town in successive causes of popular discontent, from this period to the declaration of independence, shows the leading influence of the town of Boston on all measures which were the precursors of that event."² Each town usually instructed its representatives as to the legislation that it desired, and it was the duty of the delegates to the Court to secure such laws as their towns wished for. June 7, 1723, for instance, "Mr. Cooke acquainted the House that the Town of Boston had directed their Representatives to propose

³ Journal, 1773-74, p.56-57.

⁴ Ibid., 1773-74, p.61-62.

¹ Ibid., VI, 114-115; see also Ibid., 1758-59, p.55; 1770-71, p.227.

² Josiah Quincy, Municipal History of...Boston, pp.13, 15.

some Articles to this Court for the better Regulating Indians, Negroes, and Mulattoes in the Town of Boston, and that they endeavor to have them pass'd into an act, which he Read in his place, and laid on the Table."¹

It sometimes occurred, however, that the representative might have no instructions from their towns in respect to matters that came before the House, and concerning which they could not know the sentiments of their constituents. In such cases the House very often delayed on the matter until the delegates might have time to consult their fellow-townsmen as to their wishes on the subject. In June, 1754, the Governor in a message to both Houses recommended "the printing of the bill (providing an excise tax on spirituous liquors) for the consideration of the people, and that the Assembly should take it up again at the adjournment. This proposition was complied with...."² In December of the same year, during a debate in the House on the Albany plan of union, "it was resolved by yeas and nays in the affirmative, by a majority of only three members, the House then consisting of seventy-eight. At length, the consideration of the report for the general union was voted to be suspended until the members should have an opportunity to consult their constituents respecting it..."³ In the following ten years two more similar instances may be

¹ Journal, V, 18.

² G.R.Minot, Continuation of History of Massachusetts Bay, p.202-203.

³ Ibid., I, p.200-201.

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found.

By the middle of the period the people were pretty well informed concerning the legislation emitting from the General Court, through distribution of printed acts and records, but previous to that time a different means of publishing the laws was utilized. "In 1673, the General Court ordered that all laws and orders of every session, thought fit to be published, be 'read in the markett place at Boston upon the fifth day, being a lecture day, within ten dayes after the end of such sessions, which, being performed, is and shall be accounted sufficient publication. (Mass. Col. Records, IV, part ii, p. 562-563.).... According to the ancient practice.... March 15, 1700-01, Mr. Sheriff Gookin was allowed £ 3 for his expense in publishing the acts; and in 1726 John Dorrell, deputy sheriff, was allowed £7 13s 6d for cash paid for beating drums, and for his own service in publishing the acts of the General Assembly."²

1 June 4, 1764, "Ordered, That the consideration of this Bill be referr'd to th next Session of this Court; and that the Substance thereof be inserted in the Boston News-Papers, so that the several Towns in said County may be notified thereof that they may have Opportunity to make their Objections, if any they have.

"Sent up for Concurrence." Journal, 1764-65, p.17.

February 12, 1768, the House "Resolved, That the Members of this House be directed to acquaint their respective Towns, that the House have had under Consideration the Expediency of an Excise on Spirituous Liquors, and to desire they would instruct their Representatives the next May relating to the said Affair." Ibid., 1767-68, p.163.

2 Acts & Resolves, I, xxv. See also Ibid., X, 399.

THE HOUSE AND THE COUNCIL

The Council "in the eyes of the British government was deemed scarcely less important than the governor himself.. It was composed of leading men of the colony 'of good life, well affected to the government, of good estates and abilities and not necessitous people or much in debt'. -- As an institution (the Council) was completely overshadowed by the governor and the Assembly. Representing neither the colony nor the King, lacking both responsibility and executive authority, and exercising only a negative influence on the passage of laws, the colonial council was never able to grow up into a constitutional body comparable with either the House of Lords or the Privy Council."

"The councillors served in three important capacities: as an advisory board to the governor, when sitting as an executive body; as an upper house of the legislature, when sitting as council in Assembly; and as a court of chancery with the governor and the highest court of appeals in the colony, when exercising judicial functions." They had no executive powers without the governor, and "their legislative independence was considerably curtailed by the governor's habit of sitting and voting with them when acting as an upper house...; and by the insistence of the lower house that they had no power to initiate legislation or to originate or amend money bills." This last was in spite of the fact that the Board of Trade ruled in 1706 that the council had ' as much to do in framing bills for the raising and granting of money as the Assembly has',

and in 1712-20 the King sent a general instruction to that effect to all the governors.¹

The House and the Council, as the two Houses of the General Court, were often thrown into close contact with each other. For a number of purposes they sat together in joint session; they elected jointly various civil officers as the Charter Provided, and appointed joint commissions; messages were often sent between them concerning the passage of bills; and in many other ways the two Houses were of necessity forced to work side by side.

Speeches by the Governor at the beginning of each session were always delivered to the Legislature in General Court assembled and sitting in the Council Chamber.² It is rather interesting and significant to note in this connection, that the House always until a few years before the Revolution, went "up" to the Council Chamber. The term, of course, was used out of respect for the Council, since the two chambers were actually on the same floor in the Court House. In June, 1719, a rather bitter altercation occurred between the Assembly and the Board when the latter insisted upon being styled "the Upper House".³ Although the House refused this demand of the Council, the outward forms of courtesy and respect were maintained. It is, however, indicative of the growing self-importance of the House, that between 1765 and 1770 the word "up"

¹ The foregoing quotations are from Cambridge History of British Empire, I, pp. 420-421.

² See above, p. 54; for exception, see above, p. 54, note 2.

³ Journal, II, 157ff.

was replaced by "into" and that the latter term was employed thereafter when the House went to join the Board in joint session, or when messages and bills were sent to that body.¹

The House and Council often sat together to hear the evidence in regard to petitions. There seems to have been no rule in regard to this matter, however, for sometimes the House alone would hold a hearing.² We are told that "The two houses, when parties to any petition or cause desire to be heard, often meet in one house....but after they are separated [sic] they vote separately upon the subject matter of the hearing. In this session (1727), after a hearing of this sort, the House passed a vote 'that when a hearing shall be had on any private cause before both houses together the subject matter shall be determined by both houses conjunctly.'" But the Council, which would have been hopelessly outvoted in such a procedure, unanimously non-concurred the vote.

Petitions were read before each House separately. Then if the need arose, the two Houses would concur if they could agree upon the setting of a date, for a hearing before both Houses in joint session.³ When the time came for the hearing the House would repair to the Council Chamber, as follows: June 2, 1715, they received "A Message from the Board, That Mr. Speaker and the House, now come up to the Council Chamber, to attend the Hearing Ordered to be this day, upon the Petition of that Part of Wingham called Conihassett, praying

1 Journal, 1767-68, p.136; 1772-73, p.132. A word of terminology, in 1771 the House, in an address to the Governor, styled itself "His Majesty's Commons", and were reprimanded for it by His Excellency. Ibid., 1770-71, p.246.

2 See above, p.60.

3 For example, May 30, 1724: "Paul Dudley Esq; brought down the Petition of....., Sent up this morning, Read in Council, viz. In the Council, May 30th, 1724. Read and Ordered, That (cont.)

they may be made a Separate Precinct.

"Mr. Speaker, and the House went up accordingly, and when the Petitioners, and the other Part of the said Town had been fully heard, they withdrew. And Mr. Speaker and the House return'd to their own chamber."¹ In such hearings the men being heard might employ counsel "learned in the Law",² and witnesses might be called in to testify.³

Upon a few occasions, when the parties involved in the hearings were so numerous that they and the two Houses could not be accommodated in the Council Chamber, the Board came down to the chamber of the House. An instance of this which occurred January 27, 1763, is rather interesting:

"Jeremiah Powell, Esq; came down from the honourable Board to acquaint this House that the Board is now ready to proceed to the Hearing of the Directors and Partners of the Land Bank Company.

"Ordered, That Col. Pourne go up to the honourable Board to acquaint them that this House is also ready to proceed to the said Hearing. The House accordingly went into the Council Chamber and upon a motion made in the General Court,⁴ the House returned to their own Chamber.

"Mr. Speaker and the House being seated, a Motion was made in the House that a Message go up to the honourable Board to propose that the Hearing of the Directors and Partners before this Court, be had in this Room for better Accomodation,

this Petitioner forthwith serve the Adverse Parties with a Copy of this Petition, that they may give in their Reasons (if any they have) upon Friday the Fifth of June next, at Ten of the Clock in the Morning, why the Prayer thereof should not be granted. Sent down for Concurrence. Read and Concurred." Journal, VI, 13.

1 Ibid., I, 21.

2 Ibid., VI, 105.

3 Ibid., 1758-59, p.36-37. Other joint hearings, Ibid., I, 18; (cont.)

if the Honourable Board think proper, and Mr. Otis went up accordingly, who returned that he had delivered the Message.

"Brigadier Brattle, came down from the honourable Board to acquaint the House that they agree to the proposal that the Hearing of the Directors and Partners of the late Land-Bank Company be had in this Room; and to desire the House if they see Cause, to regulate the Galleries, so that the Parties may have Room to attend.

"Ordered, That Col. Bourne go up to the Honourable Board to acquaint them that this House propose to accomodate the Directors and Partners concerned upon the Floor of the House, if the Board agree to it.

"Who return'd he had delivered the Message.

"Harrison Gray, Esq; came down from the Honourable Board to acquaint the House that they agree to the last proposal of the House.

"Ordered, That the Door-Keeper be directed to prepare Seats for the accomodation of his Excellency and the two Houses; and also for the Persons concerned in the Hearing.

"The two Houses met, and the Directors and Partners were admitted to a Hearing, and upon a Pled offered by Robert Auchmuty, Esq; a Descendent [sic] of one of the late Directors, to the Jurisdiction, the Honourable Board returned to their own Chamber."¹

II, 189; 1758-59, p.43-44; 1772-73, p.167.

4 This seems to be a unique motion "in the General Court".

1 Journal., 1767-68, p.136.

Other hearings were afterwards held in the House Chamber,¹ but the Council room continued to be the usual place for joint meetings.

In cases of disagreement between the two Houses, when joint committees appointed for the purpose² could not settle the point, conferences of the two bodies sitting together were sometimes held. Usually when one House expressed the desire for such a joint session, the other would agree to it and a time would be appointed for the sitting. The House, in arranging for such a session, would appoint several of their members to be their managers. This, however, did not preclude the possibility of other members taking a part in the conference if they so desired. When the appointed hour arrived, the procedure was usually as follows: "A message from the Board by Mr. Secretary Willard, That they are ready to attend the Conference of both Houses appointed....., if the House are ready to come up.

"Mr. Speaker and the House went up accordingly. And after a considerable time spent therein return'd to their own Chamber."³ No notable change in this procedure seems to have occurred throughout the royal period. The Council Chamber always seems to have been the scene of such conferences.

It was not always possible for the two Houses to arrange the matter of holding a conference. Either might refuse,

1 Ibid., 1768-69, p.154, 162-163; 1772-73, p.244.

2 See above, p.64ff.

3 Journal, II, 150-151. See also Ibid., II, 46, 47, 62, 157, 159, 211, 214; IX, 301, 302, etc.

and the records show that each did so at some time or other. On December 19, 1723, the House refused a request of the Council for a conference in regard to appropriations.¹ In December a year later, the House declined to confer over money matters with the Council, claiming that "We have never as yet conferred with the Council in Matters of money...and never was as we know of; desired by the Council but once, which was denied by the House, as being their undoubted Right and Privilege to grant and appropriate the Sum or Sums they do from time to time Raise, and set the time for the Payment or Drawing in the same; and thereon this Head the House cannot come into a Conference as desired."² On the other hand, the Council was also known to prefer not to participate in a conference upon occasion, once because "as they apprehend it is not usual to confer, unless in Cases wherein it appears that the two Houses differ in Opinion."³ It was, apparently, much more usual for the Houses to agree to hold conferences, concerning matters of importance.⁴ At least once the Council requested a conference upon a certain subject, and then at the joint session announced to the House that a decision had already been reached by the Council, for on June 23, 1719, the House complained: "It is new and unusual for the Council to desire a free Conference upon a subject matter and then on the management to inform the House that by a previous Vote, they had so far Engaged themselves that they could not recede from it."⁵

1 Journal, V, 300.

2 Ibid., VI, 160, 163.

3 Ibid., 1767-68, p.137.

4 Ibid., X, 73-74.

5 Ibid., II, 157-158, italics mine.

From time to time as the occasion demanded, the two Houses would appoint joint committees to deal with petitions, to draw up addresses to the King, to advise legislation, or for any other purpose which seemed to require such cooperation. These were never standing committees, but were always select groups appointed for specific duties. Almost invariably such committees consisted of one more Representative than Councillors. The House seemed to be at some pains to follow this custom, and it was extremely seldom that the representation on joint committees varied so as to give the Council the majority. On the other hand, the number of House members almost ¹ never exceeded those of the Board by more than one.

Very rarely did either House refuse to concur in the appointment of a joint committee, ² probably as much as anything else because of the fear that the other House might preempt too much power.

The House and the Council cooperated in choosing most of the civil officers of the province, except those whose appointments were reserved to the Governor or the King, as provided in the Charter of 1691. Thus the Court chose the Treasurer, the Commissioner of Import, the Attorney-General ³ of the Province; and other lesser officers such as the notaries public for the seaport towns, and truckmasters (factors) for trading-posts. ⁴ They also chose an Agent for the Province, although his term of office was not limited to one year and there was no regular time for his election. The procedure followed in the choice of these civil officers was the same as

¹ Journal, I, 5, 81, 185, 238; VI, 13-14, 16-17; 1761-62, p.14. There is no evidence to indicate the procedure followed in these committee meetings.

² Ibid., VI, 45.

³ This appointment a subject for dispute between Governor and Assembly in 1729. See Journal, IX, 9.

that in the election of Councillors, and seems not to have¹ changed throughout the period. During the early years it was customary to choose the civil officers at the beginning of the first session of the Court in the spring; but from 1758 to the Revolution the choice was usually made during one of the later sessions which met at any time from the beginning of² January to the last of April.

The list of officers so chosen was submitted to the Governor for his written approval. As a rule he consented to all the appointments, but occasionally he made some demurrance.³ Should the Governor impose his negative on any choice, it was customary for the General Court to choose another officer to⁴ fill the place.

In these elections the Council had comparatively little influence, Hutchinson declares: "The Council and House had made it a practice, ever since the charter to unite in the choice of the treasurer, import officer, and other civil officers, the appointment whereof is reserved to the general assembly. The Council, being less than a third part of the House, have by this means no weight in such selections unless when there are two or more candidates for an office, set up by the House, and then the balance of power, if they are united themselves, may be with them.

"If either house should elect by themselves and send

4 Ibid., II, 114, 121-124, 185, 201, 296, 297.

1 See above, p.44 ff. The agent at least twice was chosen by a vote of the House, concurred in by the Council, and accepted by the Governor. See Journal, IX, 318.

2 Ibid., I, 92; V, 48; VI, 55; 1758-59, p.170; 1773-74, p.123. Civil officers were sometimes chosen at the fall session as early as 1729 at any rate. -- See Ibid., IX, 121-124, 297.

3 June 17, 1724, "Mr. Secretary brought down the List of Civil Officers, chosen by both Houses the 12th Curreant, for the present year, pass'd on by His Honour the Lieutenant-Governour, in these words, viz. I consent to all the above Election, except-
(cont.)

to the other for concurrence the right of nomination would be such an advantage as neither would be willing to concede to the other.¹"

But the House, not satisfied with their great preponderance of numbers in such an election, tried upon one occasion to alter the custom. "The manner of choosing civil officers had been by joint vote or ballot of council and house. This gives a great advantage to the House..... But (in 1723) to be more sure of the person the majority of the House were fond of, they chose Mr. Cooke for agent and sent the vote to the Board for concurrence. The Council non-concurred and insisted on proceeding in the usual way, which the House were obliged to comply with. The choice, however, fell upon the same person..²"

The two Houses also appointed a number of joint commissions to deal with various matters: to treat with the Indians, to assist the Governor in carrying on the war, or to survey boundary lines.³ Sometimes the choosing of such commissions led to controversies with the Governor who complained that his prerogative was thus being encroached upon.

During sessions of the General Court, messages were constantly being transmitted between the House. The Assembly would send a delegation up to the Council Chamber to learn whether the Board had passed upon a certain petition, to acquaint them with some action completed or proposed by the House, to carry up an engrossed bill for concurrence, or in

ing John Read Esq; Wm. DUMMER." Ibid., VI, 67.
 4 Ibid., 1769-70, p.186-189.

1 Hutchinson, II, 329-330.

2 Ibid., II, 302. In 1729, the Council suggested the other method of choosing an agent, and this time the House demurred. See Journal, IX, 319, and above, p.91.

3 Journal, I, 48; V, 180-181.

reference to any other matters requiring cooperative action by the two Houses. Occasionally messages were formulated in the House to explain its policy in regard to some method of procedure, and were sent to the Council either by way of apology or reprimand. Communication by the Board with the Assembly occurred spasmodically for similar purposes. There was no fixed custom as to the personnel of such inter-chamber delegations, but in each instance a select committee was appointed, by order of the House or Council respectively. In this connection, the House committee might consist of from one to five members, occasionally as many as seven if the matter under discussion were important enough. Members of the House almost never carried communications from the Council back to the House, for that duty was reserved to the Councillors, and vice versa.

In the later period it had become customary for neither House to be interrupted by messages or otherwise, when engaged in important debate. On January 15, 1768, the House, "Upon a Motion made, Resolved, That when this House shall have come into Resolution no to be interrupted in any Debate, a Message shall be sent the Honourable Board to acquaint them that the House are engaged in Debate, and will acquaint the Hon. Board when it shall be over." To this the Council agreed.¹ The Board evidently had a similar rule regarding interruptions, for the House Journal records that on February 4, 1768, "Thomas Flucker, Esq; came down to acquaint the House that the Governor and Council are now in a Public Hearing, and that the Board will let the House know when it is over.

¹ Journal, 1767-68, p.114-115.

"John Bradbury, Esq; came down to acquaint the House that the Public Hearing before the Governor and Council was over, and that the Board are ready to receive any Messages¹ which the House shall think proper to send up."

Quite frequently one House would send to the other asking to speak with one of its members. For instance, August 21, 1723, the House received "A Message from the Honourable Board that the Board desire to speak with Mr. Joseph Southworth, a member of this House."² This is about all the information that the Journal gives in regard to such a matter in the early period. Presumably, however, a member of the House would be required to obtain permission from the members there assembled before he could leave the House Chamber to comply with the request of the Board. In the later period, after 1758, such permission was unquestionably required, as the following entry discloses: "Voted, That Mr... have Liberty to attend the Honourable Board,"³ On the other the procedure pursued when the House wished to confer with a Councillor may be illustrated, viz: June 8, 1758, the House "Ordered, That Mr. Tyng go up with a Message to the Honourable Board, to acquaint them, that the House desire to speak with the honourable Mr. John Osborne, Esq;

"Who returned that he had delivered the Message.

"The said Gentleman came down from the Honourable Board accordingly.

"When Mr. Speaker was pleased to enquire of him whether

¹ Journal, 1767-68, p.148.

² Ibid., v, 134.

³ Ibid., 1758-59, p.137.

he was possesse^d of the Treasurer's Bonds to the Government? And being informed that he was: Mr. Speaker then acquainted him , that the House Desired that they might be laid before them.

"And Mr. Osborne laid the same on the Table accordingly,

"Which were examined by the House."¹

In the various quarrels which arose between the Governor and the Assembly,² the Council usually sided with the executive, especially when the dispute involved an alleged encroachment upon the royal prerogative by the popular body. The most important controversy of this sort in which the Council became involved was probably that over the question of disposition of appropriations and expenditures. According to the Charter of 1691, the General Court was to impose fines, taxes, and fees, but they were to be disposed of by warrant of the Governor and Council. Very early in the period however, the House complained that various sums of money were being expended by the Governor and Council for unauthorized purposes. This complaint continued to be made by the House while the Council defended its disposal of funds as being for contingent expenses. "Parallel to the progress of the war was the continuous dispute which was kept up between the lower house and the council concerning their respective rights of control over appropriations... (while) the governor fell largely out of view since he was forced to maintain a neutral

¹ Journal, 1758-59, p. 36. Presumably the Council granted permission for a Councillor to leave their Chamber while they were in session upon such a request from the House.

² See below, p. 104 ff.

position."¹ The House constantly maintained the stand that to it alone belonged the right of initiating and regulating appropriations, for in 1719, they claimed that "It is new and unusual for the Honourable Board, to intermeddle so much with the Grants and Funds, which this House takes to be their peculiar Province."² Moreover, "in its resolve for the supply of the treasury, in November, 1721, the House sought to establish a complete control over expenditure by introducing a clause stating that the sums should be used for the purpose indicated 'and for no other end whatsoever.' The Council objected, but the Assembly replied that it was reasonable that those who granted the money should have the disposal thereof."³

The Council objected to this contention as being contrary to custom, and because the executive would have to obtain the consent of the Assembly for any expenditure, no matter how petty. "But the House stoutly refused any appropriation unless the clause was annexed, and continued its attitude at later sessions.... In June, 1723, a note of supply was sent up by the lower house, but the Council did not agree." The House then proposed an appeal of the problem to the people of the province, but the Council objected, "insisting that the disposition of the money should be left with itself and the governor subject to the ordinary provision of the appropriation acts."⁴ The House yielded somewhat at this time,

1 Osgood, III, 173.

2 Journal, II, 158.

3 Osgood, III, 164-165.

4 Ibid., III, 165, 173, 175.

but near the close of the year, the quarrel was renewed when the House demanded that it be allowed to make specific provision for expenditures in its money bills. Again the Council dominated the situation and there was no further dispute over appropriation bills for the remainder of the year. "As it was, however, the House relentlessly pursued its object and pretty effectively limited the discretion of the executive over expenditures, also securing for itself a large degree of control over the conduct of the war."¹

Disputes between the two Houses occasionally arose² over minor points, but on the whole the position of the Assembly was increasingly strengthened by popular support as the period progressed and the Revolution became imminent.

1 Osgood, III, 174.

2 Such as the dispute in 1703 over the Council's proposed inspection of the House records, or that in 1720 over the printing of derogatory remarks about the Council in the House Journal. Ibid., III, 134, 150.

THE HOUSE AND THE GOVERNOR

The Governor came into contact with the House of Representatives at a number of points. His power of veto in the choice of Councillors, Speaker of the House, and civil officers, and on all acts of government made by the Assembly have already been noted.¹ He delivered speeches to the House and sent messages to it, recommending legislation, criticising actions it had taken, suggesting amendments to bills which had been passed, or merely giving explanations of his own action or information required by the House. Through its committees he received messages from the Assembly and sometimes was addressed in person by the Speaker before the whole House. The Governor read his commission and took the necessary oaths in the presence of the General Court. In these ways, and in many others, contacts were established between the executive and the popular branch of the Legislature.

The matter of the Governor's speeches to the General Court has already been discussed in this paper.² In addition to such speeches, the Governor might also communicate with the House by means of oral or written messages which were usually transmitted to the Assembly by the Secretary of the Province or by his deputy. The oral messages ordinarily related to unimportant matters, generally concerned with the actual machinery of the administration of government, and were delivered to the House verbally by the Secretary. Such messages were most often merely to summon the House to the Council

1 See above, pp.35 ff., 47, 74, 92.

2 See above, pp.53 ff.

Chamber, there to attend the Governor. The written messages, however, were of a more formal nature. They might be laid on the Table by the Secretary who then withdrew, whereupon the Clerk of the House would read the message aloud; or the Secretary might read the message, place it upon the Table, and withdraw, after which the Clerk would go through the formality¹ of reading it again.

Such written messages might include any sort of material which the Governor wished to convey to the House. Letters to the neighboring colonies might be sent for the Assembly's approval; new legislation might be recommended in accordance with the Governor's latest instructions; amendments to passed bills might be recommended; news from England might be communicated to the House; or information in answer to questions² of the Assembly might be given.

Points of Contact

Upon few occasions did the whole House go up in a body to address the Governor at a time other than when replying to one of his speeches, although such a thing was done. On February 17, 1774, for instance, the House "Upon a Motion, Ordered, That(five men) be a committee to wait on the Governor, and acquaint him that this House hath prepared a Petition..... and the whole House will present it when his Excellency shall be ready to receive it." The next day the Governor sent word that he was "now in the Chair, and ready

¹ Journal, 1758-59, p.80, 81, 83, 110, 121; 1761-62, p.145-146; 1764-65, p.52.

² For illustrations, see Ibid., I, 37-38; 1761-62, p.238, 243; 1766-67, p.198.

to receive the Address of this House.

"The House then went into the Council Chamber, where the Speaker acquainted the Governor that he had in his hand a Petition to the Governor for the removal of Chief Justice Oliver from his seat in the Superiour Court; and Read the same and delivered it to the Governor. After which the House¹ return'd to its own Chamber."

Much more frequently the House sent oral or written messages to the Governor. These were carried up by a committee of members consisting of as few as two at some times, sometimes as many as five.² It was the duty of such a committee to find the Governor and deliver the message to him in person.³ In the early years of the royal period, a committee so appointed would send to ask the Governor when and where he would see them, and then, having been given an appointment, would attend him. But later in the period they went at once to find His Excellency, without taking this preliminary step. Such procedure was complained of by Hutchinson, who urged the House that the old custom be revived, "as it has the Tendency to preserve the dignity of his Majesty's Representative in the Province, and as it may prevent the Attendance of the Committees of the House at a Time and Place when and where it⁴ may not be convenient for the Governor to receive them."

¹ Journal, 1773-74, p.173.

² Ibid., I, 74; VI, 167.

³ May 29, 1771, the House sent a communication to the Governor: "Mr. Otis from the said Committee reported, That they had accordingly left the Message with the Secretary, his Excellency the Governor not being in the Chair." This did not prove satisfactory to the House, and the next day the same committee was sent to deliver the message to the Governor in person, although he had already received it from the Secretary. Journal, 1771-72, p.7, 11. See also Ibid., 1772-73, pp.33, 36.

⁴ Journal, 1772-73, p.242. No action seems to have been taken by the House on this request as far as the evidence shows.

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This matter, in itself relatively insignificant, when considered by the side of other examples of popular independence indicates clearly how the House was becoming conscious of its own importance and consequently careless in dealing with the Governor.

On a few occasions just prior to the Revolution, the House, instead of sending a committee to wait upon his Excellency, ordered the Secretary to carry a message to him. And instead of asking the Governor for information they would merely send for the Secretary and obtain it from him.¹ By that time the House had come to evince little respect for the Secretary, although he was an appointee of the Governor, and he was ordered around as if he were merely an officer of the House.

Communications to the Governor from the House covered a wide range of subjects. They might ask whether he had yet agreed to a bill which had been passed by both Houses; they might advise some military or naval action; they might ask that he give employment to some person whom they recommended; they might transmit to him charges which had been preferred against some public officer; they might request that he proclaim a fast day; and they might desire information on all sorts of subjects.²

¹ February 12, 1774, the Secretary attended the House according to their order, and was directed by the Speaker to deliver to the Governor a remonstrance which the House had passed. *Ibid.*, 1773-74, p.151. See also *Ibid.*, 1762-63, p.49.
On July 13, 1772, the Secretary was sent for to come to the House and when asked by the Speaker whether the Governor had passed on the militia bill replied that "The Militia Bill is now before the Governor." *Ibid.*, 1772-73, p.116.
² *Journal*, I, 42, 49; 50, 115; 1758-59, p.47, 54-55; VI, 167.

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In at least one instance the two Houses prepared a joint memorial to the Governor. Its preparation required some little time, since it had to be amended and sent from one House to the other several times before being agreed upon. When finally completed to the satisfaction of both Houses, it was sent to the Governor by a committee of three members of the House and probably two of the Council. It was signed by the Speaker in the name of the House.¹

The House held contact with the Governor, also when his commission was read and he took oaths of his office immediately upon his arrival from England after appointment. On November 26, 1761, for example, the House were summoned to the Council Chamber. "Mr. Speaker and the House went up accordingly; when his Excellency's Commission, appointing him Captain General and Commander in Chief, etc., over this Province, and Vice-Admiral of the same, was published by Mr. Secretary.

"After which, the Oaths, etc., were administered to His Excellency, by his Honour the Lieutenant Governor.

"After which, Mr. Speaker, with the House, returned to their own Chamber."²

In Massachusetts "in character and aim the people were virtually a unit, and under the charter of 1691 the only political conflict which ordinarily could occur would be with the royally appointed governor."³ From the very beginning of the royal period, however, the Assembly, as representative of the

¹ Ibid., 1758-59, p.65. Probably the messages to the Governor from the House alone were also signed by the Speaker, but the Journal gives no indication of such a practice.

² Ibid., 1761, p.152.

³ Osgood, p.237.

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people of the province, took up the challenge embodied in the royal prerogative and checked its exercise by the Governor at every turn. "That by cooperating with the Governor they could make his administration an unqualified success, the careers of such men as Shirley clearly prove; by opposing him they could completely ruin the most carefully prepared executive plans."¹ In case the Governor refused to take some action which the House desired, it could bring pressure to bear upon him in a number of ways. If he disapproved of a number of Councillors that had been elected by the Court, the members of the House could decline to name others. They could refuse to grant appropriations for the carrying on of the war and for support of the government -- especially for his Excellency's salary. They could make living conditions for the Governor very unpleasant by not allowing for repairs and upkeep of the Province House. And in the final analysis, they could refuse to legislate at all, although this method of sabotage was often found to operate as much to their disadvantage as to the Governor's.

Disputes

A detailed treatment of the various conflicts carried on between the Governor and Assembly would be somewhat beyond the scope of this paper, but some mention of them must be made since "these conflicts fill the chief place in the political history of the colonies, their history as institutions of government, and as a result of them civil and political rights were established, executive discretion limited and the constitution of the colonies was developed."²

Because of the fact that in practically every matter

¹ Harlow, p. 1-2.

² Osgood, I., 37.

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present. The author then goes on to discuss the various factors which have shaped the development of the United States, including the influence of the British, the Spanish, and the French. He also discusses the role of the American people in the creation of the nation. The paper concludes by stating that the study of the history of the United States is a task of great importance, and that it is one which should be undertaken by all who are interested in the future of the country.

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concerned with administration of the government, the executive and the legislature came into contact, the opportunities for conflict were many and varied. Although the aims of the home government and the people of the province coincided in foreign relations and the execution of the war against external enemies, the exercise of the royal prerogative often clashed with popular sentiment over affairs of domestic policy. The dispute regarding the authority of the Governor to veto the House's choice of their Speaker, has already been dealt with to some extent; ¹ that concerning the place of meeting has also been suggested; and the altercation over the right of adjournment ² of the House will be dealt with shortly. Of the many remaining subjects for controversy between the Assembly and the Governor, probably the chief were in the field of financial affairs.

The first of these contentious episodes was concerned with the problem of control of expenditures in the province. The Charter of 1691 provided that disposal of provincial funds should be by warrant of the Governor and Council. ³ But "before the close of 1693, it was evident that (Governor) Phips had lost control of the house.....On one or two occasions also the governor and council offended the representatives by ordering the payment of money for purposes not designated in the appropriation acts. This led to a number of protests on the part of the house and in 1695 the passage of a bill in which they secured the rights of the house of commons in such matters." ⁴ The Governor and Council, however, acting in executive capacity,

¹ See above, p. 35ff and p. 17ff.

² See below p. 110.

³ For the Council's part in this matter, see above, p. 96.

⁴ Osgood, I., 317.

continued to order expenditures from time to time which were not specifically authorized by the House. Jealous for its rights the House, "in its resolve for the supply of the treasury, in November 1721,-----sought to establish a complete control over expenditure by introducing a clause stating that the sums should be used for the purpose indicated 'and for no other end or uses whatsoever,'"¹ and refused any further appropriations until this clause was accepted. Thence forward practically all appropriation bills contained clauses specifying the use to which the money should be put.

In 1732, Governor Belcher wrote a letter to the Duke of Newcastle concerning this matter. "In this the power of the the assembly to impose and of the executive to dispose of public taxes and revenue was asserted as in harmony with the language of the charter and a necessary division of functions in government; otherwise the work of the executive would be merely clerical." The British authorities responded with the decision that the executive should have control of general appropriations, but not over specific appropriation clauses, since the Privy Council believed the House's contention to be quite in keeping with English custom.² Thus the Assembly won a virtual victory over the governor, and the matter thereafter became more or less of a dead issue.

A dispute which was calculated to affect the Governor's equanimity more intimately was that which arose over the question of permanent salaries for the chief executive in the province. As a measure of economy in the prevalent mercantilist-colonial system, the English authorities decided, upon the fort-

¹ Ibid., 164.

² Osgood, III., 325-326.

ation of the province of Massachusetts in 1691, to provide that the royally appointed governor should receive his salary annually from the provincial revenues. This stipend was to be in the form of a permanent grant. "As the New England colonies prior to 1690, had developed but the rudiments of a salary system and were accustomed only to annual appropriations, it was natural that Massachusetts should be most reluctant to adopt this system and that a prolonged and violent controversy might arise there over the salary question. That proved to be the case-----." ¹

"Toward the close of Phips' administration an act had been passed appropriating £ 500 'for his service and expense since his arrival.' This was in harmony with Massachusetts custom and was to be in vogue---for a long time to come. ---- Phips made a faint protest against the form and the amount of these appropriations, but no notice was taken of it. Annual grants of £ 500 continued throughout his administration." ²

The form of the grant was usually similar to the following.

"Be it enacted by the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

"That there be paid out of the publick treasury of this province, to his Excel. Sr. William Phips, Int, for his great service in the government this present year, the sum of five hundred pounds." ³

This custom of making annual grants continued in Bel-
mont's administration. ⁴ By complaints from Bellomont to the Board of Trade "the situation was brought to the attention of the British authorities and this, in connection with complaints

1 Ibid., II., 132.

2 Osgood, II., 132-133.

3 Acts and Resolves, I., 186. See also Ibid., I., 109, 174, 787.

4 Ibid., I., 395, 437.

from other colonies, led to the framing of the royal instruction and the opening of a long campaign (by Dudley in 1703) for¹ adequate and fixed salaries." After the Governor had informed the Assembly of this new instruction, he received the following reply from the House; "May it please your Excellency; In answer to that part of your Excy's Speech, referring to the settling of perpetual Salaries,-----,"

"Inprinis, it hath been the Priviledge from Henry the third and confirmed by Edward the first, etc., in all Reigns unto this Day, granted, etc., is now allowed to be the just and unquestionable Right of the Subject, to raise when and dispose of how they see Cause, any Sum of money by Consent of Parliament, the which Priviledge We her Majesty's Loyal and Dutiful Subjects have lived in the Enjoynt. of, and do hope always to enjoy the same, under Our most gracious Queen Ann and Successors, and shall ever endeavour to discharge the Duty incumbent on us; But humbly conceive the Stating of perpetual Salaries not agreeable to her Majesty's Interests in this Province, but prejudicial² to her Majesty's good Subjects....."

The Assembly intended no change in its attitude toward the salary question, as was shown by its continuance of annual grants of the usual amount, and Dudley was forced to give in. The Governors felt that the uncertain grants thus made were not sufficient for their support. Moreover in 1716 the General Court passed a bill providing for £ 100,000 in bills of credit to be added to the currency in the province, thus inflating³ still further the already badly depreciated currency. By 1720

¹ Osgood, II., p. 133.

² Acts & Resolves, VIII., 341.

³ Ibid., III., 146. The problem of colonial finance is too involved for an adequate discussion here.

Governor Shute was forced because of the reduction in his salary by the Assembly after a quarrel over the ¹ because of the small value of the depreciated money he actually received to complain to the General Court. He published his 10th instruction, which ordered him to persuade the Court to settle a permanent salary. The House, however, not only refused to alter its system, ² but demanded Shute's acceptance of certain bills before granting him a reduced salary. ³ The Governor retaliated by refusing to sign the bills until his salary grant was made.

"The only way in which this (deadlock) could be overcome proved to be by the payment of the Governor's salary from the treasury in England until the people of Massachusetts should become accustomed to a perpetual and fixed provision for their executive." ⁴ But this the English authorities would not consent to although Governor Shute reported the advisability of such a procedure in 1726. Governor Burnet according to an Order in Council of February 15, 1727/8, that the Assembly was to settle on the Governor an annual salary of at least £ 1000. The result was a struggle without a sign of concession on either side, for the House persisted in its policy. ⁵ When Governor Burnet consistently refused in accordance with his instructions, and because he believed the Court's pertinacity was merely intended to check his independence of action. The Boston town meeting at this time instructed its representatives in the House to oppose a permanent salary for the Governor. "For this reason, Burnet adjourned the General Court to next October 31

¹ See above p. 36.

² Journal, II., 352-353.

³ Journal, II., 263.

⁴ Osgood, III., 176.

at Salem. A disagreement over the legality of this act was referred to the salary question."¹

In November, 1771, however, Governor Belcher who had replaced Burnet, obeyed his instructions and accepted a grant from the General Court. The Board of Trade, faced with a fait accompli was forced to accept the situation and issued a new instruction to that effect. "The qualification which was introduced into the instructions was mere words and nothing more. It was evident that the British government was not prepared to stand by its own declaration or to support its governor in upholding it. The cause had nearly been lost when Burnet disappeared from the scene,----- and by the appointment of a compromiser like Belcher the government had already surrendered its case. This was well enough understood at Boston, and year after year the procedure of 1771 was repeated." Governor Belcher in each case sought permission to accept the grant offered him and was allowed it. Thus the precedent was established till it was no longer necessary even to secure the consent of the crown or to note the fact that the earlier instructions were being violated." This culminated the bitter salary controversy to the complete satisfaction of the Assembly, and a consequent loss of prestige and authority to the Governor.

The suggestion first made by Shute in 1726 was finally acted upon in the final episode of the salary problem in Massachusetts. From 1770 to the Revolution, Governor Hutchinson in accordance with his instructions drew his salary from the revenue provided by the tax on tea. The House of Representatives stormed against this encroachment upon its control of appropri-

1 Osgood, III., 172-3. See also above, p. 16.

times, but Hutchinson stood firm. Thus the long impending threat of parliamentary intervention in the salary question¹ was held good.

"Additional questions at issue between the Governors and the Assemblies were as manifold as were the claims of the royal prerogative, and followed closely the attempts of the Governors to resist in the prerogative and obey their instructions."² The prevailing tendency, however, was for the House to constantly increase its powers by encroachment upon the authority of the executive. The struggle between Governor and Assembly became more acute toward the end of the royal period, and after news of the Stamp Act had reached the colony there was hardly a session of the Court which was not broken with violent debate and bitter railings at royal control.

Powers of the Governor

The Massachusetts Charter of 1691 conceded to the Governor the right to summon, adjourn, prorogue, and dissolve the General Court, and the power of an absolute veto on all elections and legislation of the Court. "They came to (the colony) endowed with the power that placed them at the head of the Government and made them the source of all authority, for without their consent the colony could not function legally as a political organization."³ True enough, the Charter provided that a General Court be convened at least annually, but the other extensive powers of the Governor theoretically rendered this check upon his absolutism quite innocuous.

¹ Hutchinson, III, pp. 357-361; Acts and Resolves, V, 34, 53-60.

² Canb. Hist. Brit. Emp., I, 434.

³ Canb. Hist. Brit. Emp., I, 413.

The first part of the paper is devoted to a general discussion of the problem of the origin of life. It is shown that the problem is not only a scientific one, but also a philosophical one. The scientific aspect of the problem is the question of how life arose from non-life. The philosophical aspect is the question of whether life is a necessary part of the universe or whether it is a mere accident.

The second part of the paper is devoted to a discussion of the various theories of the origin of life. These theories are divided into two main groups: the theory of spontaneous generation and the theory of biogenesis. The theory of spontaneous generation is the older of the two and is based on the idea that life can arise from non-life. The theory of biogenesis is the newer of the two and is based on the idea that life can only arise from life.

The third part of the paper is devoted to a discussion of the evidence for the theory of biogenesis. This evidence is of two kinds: direct evidence and indirect evidence. Direct evidence is evidence that shows life arising from life. Indirect evidence is evidence that shows life arising from non-life.

The fourth part of the paper is devoted to a discussion of the implications of the theory of biogenesis. These implications are of two kinds: scientific implications and philosophical implications. The scientific implications are the implications for the study of the origin of life. The philosophical implications are the implications for the study of the nature of life.

The fifth part of the paper is devoted to a discussion of the future of the study of the origin of life. It is shown that the study of the origin of life is a very young science and that there is still much to be learned about it. It is also shown that the study of the origin of life is a very important science and that it has many practical applications.

The sixth part of the paper is devoted to a discussion of the conclusion of the study. It is shown that the theory of biogenesis is the most reasonable theory of the origin of life. It is also shown that the study of the origin of life is a very important science and that it has many practical applications.

The seventh part of the paper is devoted to a discussion of the bibliography. It is shown that there are many books and articles on the origin of life. It is also shown that there are many different theories of the origin of life.

The eighth part of the paper is devoted to a discussion of the index. It is shown that there are many different ways of indexing a book. It is also shown that there are many different ways of finding a book.

The ninth part of the paper is devoted to a discussion of the appendix. It is shown that there are many different ways of writing an appendix. It is also shown that there are many different ways of finding an appendix.

The tenth part of the paper is devoted to a discussion of the conclusion. It is shown that the theory of biogenesis is the most reasonable theory of the origin of life. It is also shown that the study of the origin of life is a very important science and that it has many practical applications.

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The thirteenth part of the paper is devoted to a discussion of the appendix. It is shown that there are many different ways of writing an appendix. It is also shown that there are many different ways of finding an appendix.

The fourteenth part of the paper is devoted to a discussion of the conclusion. It is shown that the theory of biogenesis is the most reasonable theory of the origin of life. It is also shown that the study of the origin of life is a very important science and that it has many practical applications.

So far as the available evidence indicates, there is no reason to believe that the Governor's right to place his absolute negative upon all acts of legislation, was ever denied by the House of Representatives. But the House adhered to the letter of the agreement rather than to the spirit of it. As we have seen, the Assembly by various methods of coercion rather successfully controverted the executive's right of veto: by passage of orders and resolves not subject to review by the Governor; by withholding the Governor's salary, or other money grants; and by utter refusal to pass any legislation at all. The colonists in Massachusetts seemed to be peculiarly apt at such methods of passive resistance to the manifestation of the royal prerogative of which the Governor's negative was a part. There was, however, no overt attempt ever made to pass or enforce an act over the Governor's veto. So much cannot be claimed respecting the right of disallowance exercised by the Privy Council in England.

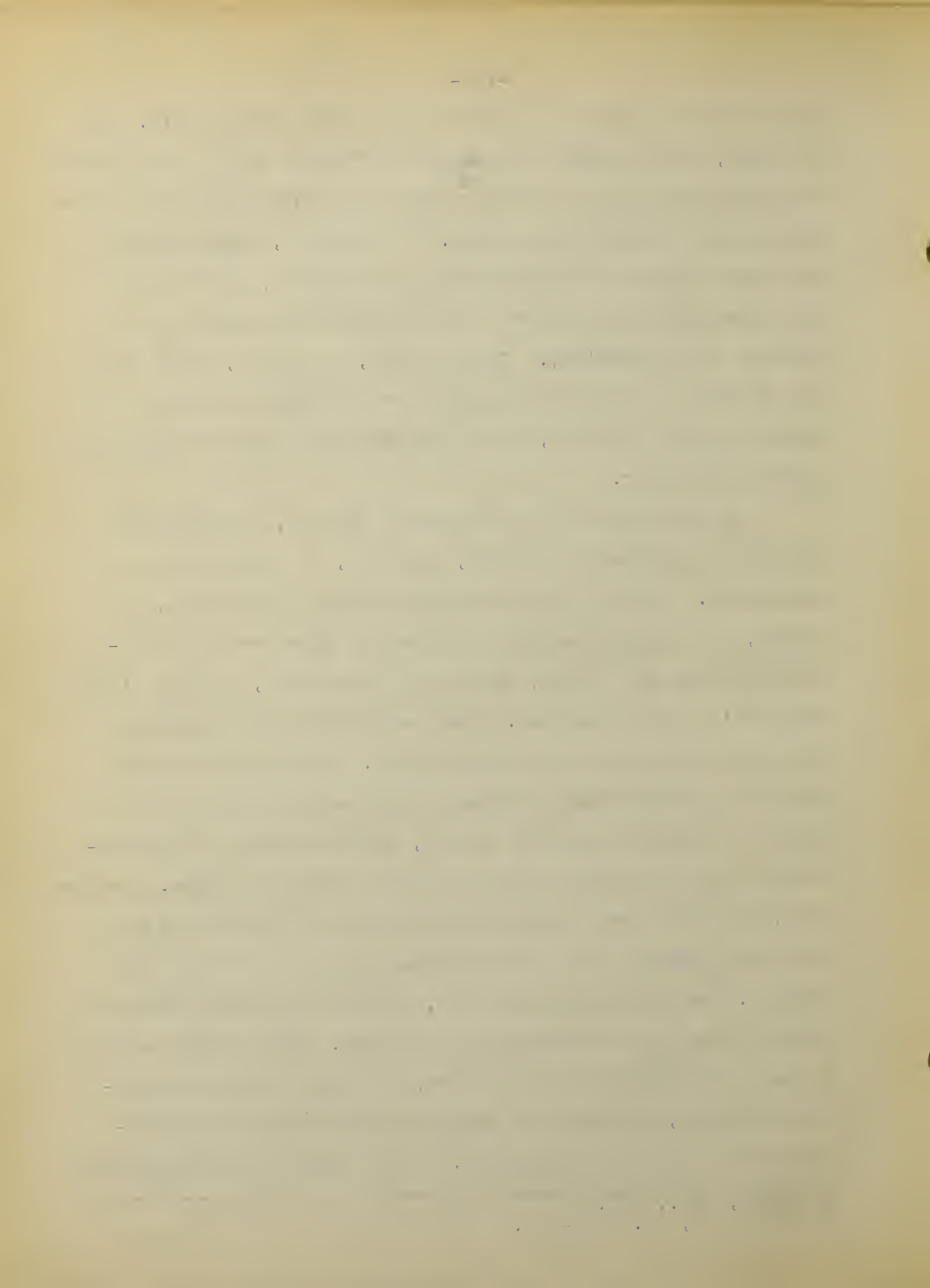
In the matter of elections the House was even less considerate of the Governor's power of veto. The conflicts which arose in this connection have also been discussed, namely that concerning the Assembly's choice of Speaker and the election of Councillors. The first of these two problems was solved after a bitter struggle by the issuance of the Explanatory charter of 1725; but the second continued unmitigated throughout the period. As a matter of fact, however, the Assembly in general conceded the authority of the executive to place his negative on the choice of councillors. But once again the spirit of the

concession was refuted by the action of the popular will. For instance, Governor Shute claimed that "Boston hardly ever failed to choose among its representatives those whose election to the Council the governor had vetoed."¹ Moreover, these men were very often placed on important House Committees, and filled positions where they exerted considerable influence over the affairs of the province. The assembly, of course, could force the Governor to accede to its choices of officers by means of wisely applied pressure, as in the matter of forcing legislation past the Governor.

By the terms of the provincial Charter, the Governor was fully empowered to adjourn, prorogue, and dissolve all Assemblies. Literal interpretation of these provisions, of course, would have prevented the General Court even from adjourning from day to day, or for the lunch hour, without the Governor's express consent. Such construction of the clause was obviously absurd and impracticable. Hence from the very beginning of the period it became customary for the Court to adjourn themselves from day to day, while the Governor retained the right to adjourn them for longer periods of time. Before 1721, the House seems never to have adjourned themselves for any longer periods than from Saturday noon to the following Tuesday. On July 13 of that year, however, the Court voted to adjourn until the nineteenth of the month. The Council was put to some inconvenience by this move, and when the House reconvened July 19, the Governor sharply rebuked them for the infringement upon his prerogative.² Never again did the Assembly

¹ Osgood, III., 175.

² Hutchinson, II., 257-258.



venture to adjourn for such a long time without the consent of the Governor. Notwithstanding this fact, the one irresponsible instance was considered sufficient to be noted among other things in a complaint made in 1720 against them by a committee of the Privy Council.¹ As a further reminder to the colonists of the existence of a higher authority, the Charter of 1725 contained a clause specifically allowing the right of the House to adjourn itself from day to day, but prohibiting adjournments for more than two days. The Governor often exercised his power of adjourning the Court, both for brief and extended periods of time. For example, on September 17, 1723, while the House was in the Council Chamber after a hearing, "Mr. Secretary declared that it was His Honour's Pleasure the Court should be adjourned 'till to-morrow Morning Nine a-Clock, and that the said Court was accordingly Adjourned."² Again, in 1724, the Secretary, acting for the Governor, adjourned the Court from Saturday until the following Monday.³ The usual mode of procedure in adjournment by the Governor was the following, subject to minor variations: "Mr. Secretary Willard came into the House and declared, That it was His Honour the Lieutenant-Governour's Pleasure, that this Great and General Court should be adjourned to Tuesday next the Sixteenth Current, at Three a-Clock Afternoon, and then to meet here."⁴ In one instance, in 1759, before an adjournment of two weeks, the formalities of a prorogation or of a dissolution were gone through. The House went up to the Council Chamber, the Governor signed the acts which had been passed and to which he agreed, and the Secretary announced that it was the Governor's

¹ Acts of the Privy Council, Colonial, 1720-1745, p.92-104.

² Journal, V, 189.

³ Ibid., VI, 204

⁴ Ibid., IX, 38.

pleasure that the Court be adjourned.

The Governor had the power of adjourning the Court from one place to another and this power he sometimes exercised.

" A Message from His Excellency the Governour by Mr. Secretary Willard, That it is His Excellency's Pleasure, that this Great and General Court should be Adjourned to Harvard College in Cambridge, in the County of Middlesex, to meet there on Wednesday next, being the 27th instant, at Ten a Clock A. M. and this Great and General Court is accordingly Ad-
2
journed to the Time and Place aforesaid."

Prorogation and dissolution were brought to pass in so much the same way that the two matters may be treated together. The chief difference seems to have been that dissolution of the Assembly necessitated a new general election and the convening of a new Assembly; while prorogation merely declared the Court not in session until some specified time at a specified place. The procedure followed in prorogation or in dissolution is not explained in the Journal for the period from 1715 to 1735. A typical entry seems to be the following for July 5, 1718: "A message from the Board by Jonathan Dowse Esq; That His Excellency Directs this House to attend him in the Council Chamber. Mr. Speaker and the House went up accordingly.

"And His Excellency was pleased to Prorogue the Court to the 27th Day of August next, at Ten of the Clock in the forenoon."
3
It is probable that at this time the Governor signed those bills to which he wished to give consent, and he sometimes made a speech before proroguing the Court.
4
The

1 Ibid., IX., 87.

2 Journal, IX., 56. Such removals were sometimes by request of the Assembly. See Ibid., IX., 309; 1763-64, p. 196-97.

3 Ibid., II., 60.

4 Ibid., II., 171.

procedure is more fully recorded in the latter part of the period, and follows the above suggestions quite closely. The¹ governor did not always make a speech but frequently did so.

Sometimes the Governor was not present when the Court was dismissed and in such a case the Secretary acted for him. March 6, 1773, the House went into the Council Chamber, when the Secretary declared that the Governor had consented to certain bills, had not consented to others, and now desired² that the Court be prorogued. On November 20, 1770, the House did not even go up to the Council Chamber for prorogation. "The Secretary came into the House by Order of his Honor the Lieutenant-Governour, and acquainted the House, that his Honor had been pleas'd to give his Assent to the following Bills.....

"Then the Secretary acquainted the House, that he had a Message to deliver the House from his Honor the Lieutenant-Governour, which he read and laid on the Table....." He then said it was his Honor's pleasure that the Court be prorogued to³ January 23, at Cambridge. On March 9, 1774, the Governor sent a message to the Court to inform them that he had not had time to examine all those which had been presented to him during the⁴ session. But the Assembly was nevertheless prorogued.

It seems to have been left to the discretion of the Governor whether he adjourn the Court or prorogue it, for both methods of securing a recess were used constantly. Moreover, farther prorogation might be made by proclamation of the Governor during a recess, thus setting ahead the date for reconvening the Court.

1 Ibid., 1758-59, p. 103-4; 1761-62, p. 165-6; 1763-64, p. 274-5 1765-66, p. 126-27.

2 Journal, 1772-73, p. 291-292.

3 Ibid., 1770-71, p. 177-182.

4 Ibid., 1773-74, p. 241-243.

The final process of dissolution of the Assembly was usually preceded by acceptance of favorable bills on the part of the Governor, and perhaps a speech to the Court, whereupon "Mr. Secretary....declared, That it was His Excellency's Order, that the Great and General Court or Assembly be forthwith dissolved; and that the said Court was accordingly Dissolved, and the Members thereof discharged from any further Attendance."¹ A few times during the royal period, the Governor utilized his power of dissolution as an instrument for ridding himself of a contrary or troublesome Assembly, since early dissolution usually meant a new Assembly within the year.² On the other hand, dissolution sometimes did not occur until very shortly before the appointed time for the spring elections.³

Commissions and Instructions

The Charter of 1691 served as the basis for the Massachusetts "constitution" in so far as it stated the rights, privileges, and duties of the colony, provided for its government, defined its extent and powers, and reserved certain things to the Crown. But in order to supplement this skeletal framework, the home government found it necessary from time to time, to indicate further provisions for the administration of the province. The means by which this was accomplished was through the detailed clauses of the royal commissions and further instructions issued to the successive Governors of Massachusetts.

The royal commissions of Office were bestowed upon the man selected to become the chief executives of the colony under the Privy Seal of England. The form of the commission usually

¹ Journal, IX., 338.

² For example, the dissolution in May 1720. Ibid., XI., 233. For the reason in this case, see above p. 30, note 6.

³ Ibid., 1773-74, p. 241-243.

followed closely that issued to Joseph by Queen Anne on April 1, 1702. viz.

"Anne by the grace of God etc... to our Trusty and Well-beloved Joseph Dudley Esquire Greeting. Whereas our late Royal Brother and Sister King William and Queen Mary--- by their charter under the Great Seal of England bearing date"--of October 7, 1691. have incorporated ---" the Province of the Massachusetts Bay in New England and have thereby granted that---" there shall be a Governour---of our said Province and Territory to be from time to time appointed and commissioned by us or Heires and Successors With severall Priviledges Franchise and Immunities thereby granted to our said loving Subjects Wee therefore Reposeing especiall Trust and confidence in your Prudence Courage and loyalty out of our especiall Grace certaine Knowledge and Hear Motion Have thought fitt to Constitute and Appoint And by these Presents Doe Constitute and appoint you the said Joseph Dudley to be our Capteine Generall and Governor in chief in and over our said Province of the Massachusetts Bay in New England And for your better Guidance and Directions Wee do hereby Require and Command you to doe and execute all things in a due manner that shall belong unto the Trust Wee have reposed in you according to the severall paires and Authorities mentioned in said Charter and in these Presents and such further Powers and Instructions and Authorities as you shall receive or which shall at any time hereafter be granted or appointed you under our Signe Manual and Signett or by order of our Privy Council in Pursuance of the said Charter and according

to such reasonable laws and statutes as are now in force or which hereafter shall be made and agreed upon in such manner and forms as by the charter is directed.-- And our Will and pleasure is That you the said Joseph Dudley shall and may hold execute and enjoy the said Office and place of our Capitaine General and Governor in chief of the Massachusetts Bay in New England With all and singular Powers and Authorities hereby granted unto you for and during our Will and Pleasure.-- Witness our selfe at Westminster the first day of April.

By Writt of Privy Seale.¹

The "singular powers" accorded the Governor were complete control of the military forces of the colony and its fortifications, and the chief magistracy of a vice-admiralty court, plus such powers as subsequent instructions should contain. The Governor was to respect the provincial charter, and to reserve certain patronage in the colony to the Crown. The commission also provided for the administration of the government in the case of the Governor's absence, by appointing the Lieutenant-Governor, and the Council (later the Senior Councillor) respectively to succeed to the position of chief executive. Supplementing the terms of the charter as they did, the commissions to the Governors could not fail to become an integral part of the provincial constitution, the supreme law by which each colony was governed subject only to royal readjustment.

The instructions which the Governors received were of two kinds: general instructions which accompanied the commissions and were complementary to them; and additional instructions of specific nature issued at any time. These documents, although

Hibbald, Dudley, Appendix A.

potentially private orders of the Crown, and in fact Orders in Council of composite draft. Probably every important official in the English government connected with the colonies, especially the member of the Board of Trade and the committee in Council, made some contribution to the formation of the instructions. Thus the instructions were composite affairs, representing many interests and varied intellects. The Governors were expected to obey their instructions to the letter, in spite of the palpable lack of coordination in their conception, which was frequently displayed in the orders. In general, the instructions informed the Governors that their attitude should be in regard to political, commercial, military, and religious affairs, as well as their treatment of certain standing local problems. The special instructions were issued to cope for matters of moment at any given time, especially new or unusual provincial difficulties.

The primary intention of the home government during the century before the Revolution, was that the colonists should accept the commissions and instructions as their provincial constitution. Despite the best English efforts, however, certain features in the system of "government by instruction" inevitably paved the way for its downfall before the colonial determination for true autonomous government. In the first place, Massachusetts enjoyed certain special privileges by her royal charter, such as the establishment of an elective Council, control of the Governor's salary, and annual elections and dissolution of the General Court. That these rights could not be contravened by any commissions or instructions could not well lessen the prestige of the royal prerogative personified by the

Governor.

A second factor was the uncertainty with which the Governor interpreted and enforced his instructions. It was inevitable that from time to time situations might arise which demanded immediate settlement even in contradiction to the instructions. Yet the home authorities, especially the Board of Trade, repeatedly reprimanded the governors for disregarding instructions which purported to embody the "true principles of a colonial constitution." The English government unquestionably intended the instructions to be literally obeyed. Such a restriction upon the judgment and discretion of the governor was obviously a weakening force. Even a necessary violation of his orders might result in the immediate recall and disgrace of the governor. On the other hand, hesitation in seeing such a violation followed by an expedient adjustment to circumstances would unquestionably be hailed by the governor's enemies as a weak surrender.

The governor's sole responsibility for enforcement of the instructions was another reason for the failure of this system of government by instruction. The home authorities demanded that the instructions be accepted as part of the provincial system, yet these orders were sent privately to the governor and were not for publication. For this reason the governor could only force their acceptance by the General Court by duplicity and coercion. Moreover, the governor's lack of patronage of a political nature in Massachusetts and the existence of so many elective officials handicapped him

in his executive duties.. The councillors supported the instructions when it suited their purposes, while the assemblymen were almost constantly opposed to "ministerial mandates" and government by instruction on the ground that such were inimical to the liberties of a free people, and would have no more of them than could be helped."¹ Indeed, due to the private nature of the instructions, the Assembly members felt that they should be binding only on the governor and not on the legislature at all. Thus the governor was forced to fight his battles with the Assembly unsupported in the province and in constant danger of recall from England.

The instructions, moreover, remained strictly mercantilist in favor of English commerce down to the American Revolution, and were especially offensive to the colonists during the latter two decades. "Thus, during a critical time when the colonial Assemblies were losing respect for the King's instructions and denying their mandatory character, the authorities at home, determined to preserve unchanged the dependent status of the King's possessions across the sea, were insisting more strenuously than before on a complete obedience to the King's instructions and the full maintenance of the royal prerogative...."²

The inflexibility of the whole system as exercised by the home government was probably the outstanding reason for its ultimate collapse, and the outbreak of the Revolution. Despite the fact that the emission of new commissions to new governors were not infrequent, and that additional instructions

¹ Cambridge History of British Empire, I, 420.

² Ibid., I, 421.

might be issued at any time, neither type of document varied materially in subject matter throughout the entire provincial period. With one of the most flexible systems for provincial government of the colonies ever devised, the English government displayed colossal stupidity, unvarying lack of judgment, and fundamental ultra-conservatism in administration which could only result in ignominious failure. With a few minor exceptions, "the changes in instructions were all made with the intent of tightening the royal grip upon the colonies rather than of loosening it, and of counteracting the growing power of the assemblies rather than of confirming it."¹

"The Board of Trade and the Privy Council had no intention of allowing the Assembly to get beyond control. Taking the position that the popular branch of the government owed its very existence to the King's will and pleasure, they deliberately circumscribed its powers in the governors' instructions in order to demonstrate its inferiority as a law-making body..... By successive instructions and decisions of the Crown lawyers or of the counsel of the Board of Trade the Assembly was forbidden to concern itself with any matter that lay outside the province it represented, or which trespassed upon the prerogative of the King or the powers of Parliament. It could not interfere in any way with the laws of trade or discriminate in favor of the colonists at the expense of the British merchants engaged in the colonial

¹ LeBaron, 415. See *Ibid.*, chapter on "Government by Instruction" for a full discussion of this topic.

trade. It could not pass private acts without a clause saving the rights of the Crown, bodies politic and corporate, and all private persons, nor could it pass these and other acts the nature of which was specified, without first obtaining the King's consent or introducing a suspending clause binding the colony not to enforce the act until the King's will were known.¹ Other instructions ordered that the Governor "should endeavor to secure fixed salaries and a house for himself and that appropriations should be indefinite in duration"; that colonial bills of credit should be issued only in limited amounts, and that the practice of passing money bills as resolves should be abolished.² Add all these restrictions to the already considerable powers of the Governor granted by the two charters, and it will plainly appear that the colonists had ample grounds for complaining that the full exercise of the royal prerogative was little short of tyranny.

¹ Cambridge History of British Empire, I, 419-423.

² Osgood, III, 145, 321, 324.

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CONCLUSION

A study of the Massachusetts Assembly necessitates in general the solution of two major problems: first, determination of the extent of the encroachment upon the royal prerogative by the Assembly; and second, ascertainment of the relation of the Assembly in procedure and customs to the House of Commons in England.

To arrive at a definite answer to the first question is difficult. The available evidence is neither as plentiful nor as suggestive as might be desired in order to trace absolutely the growth of the power of the Court relative to executive authority. It is necessary to assume a great deal without sufficient evidence upon which to base positive conclusions. It is possible to make some statements with a degree of safety. In 1723, for instance, Governor Shute in a memorial to the King stated that he discovered the representatives in Massachusetts possessed of greater powers than the House of Commons in England, for they elected the members of the Council which was the upper house. They fixed the salaries of the governor and lieutenant-governor to suit themselves. They so controlled the office of treasurer as to dictate the issue and expenditure of the public revenue. It followed that in a manner they not only controlled the legislative power but in a great measure that of the executive also. Even allowing for Shute's prejudice, we can readily anticipate the Assembly's reference to itself in the later period as "His Majesty's Commons" in the province. Ever since 1693 they had claimed all the rights and privileges

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of the House of Commons.

As the size of the membership of the House increased so did the prestige of that body expand in the province. The introduction of galleries was an innovation calculated to impress upon the popular mind through public debate, the growing importance of the Assembly. Throughout the entire period, however, certain great differences of opinion prevailed between the English authorities and the delegates in the Massachusetts Assembly as to the relative importance of the executive and legislative branches of the government, and as to the place of the Assembly in the composite governmental scheme. To the English government the dominant factor in the government of the colonies was the Governor, who drew his authority from the prerogative and in whose hands lay the ultimate control of all administrative, financial, and judicial business; while the popular Assembly was in an inferior position -- that of a provincial or municipal council, the function of which was the passage of legislation and ordinances for meeting the immediate needs of the colony itself. The colonists, however, gradually came to learn that only constant alertness and insistence could win them the rights of Englishmen. They insisted upon maintaining that principle under any and all circumstances as the whole colonial history goes to prove, and by their determination they gained their inheritance of all the privileges won by Englishmen in the preceding centuries of English constitutional history.

On the whole, so far as procedure went, relations between the House and the Council changed but little throughout the whole period, the House claiming always the predominant position in the Legislature. The infringement of the House on the rights of the Governor were, however, more obvious as the years passed. In the later period the House displayed much disrespect for the executive, while at the same time opposing his authority at every turn. The extreme claims of the earlier years were entirely abandoned later, namely: that the House should have complete control of its choice of Speaker; that the House might adjourn itself for any period of time; and that the Court might indicate its own place of meeting. Just prior to the Revolution it is evident that the House was making a number of new claims, but on the whole these were quite conservative demands. The Assembly actually exercised less freedom and fewer privileges than it had in the earlier period to some extent. The Governors in the later time were quite as able and as staunch supporters of the royal prerogative as any of their predecessors -- and were considerably more successful.

Throughout the period, the Assembly had certain factors in its favor in the attack upon the Governor's position. In the first place, the undisputed right of the Assembly to initiate legislation in the province was of inestimable value. The right to decide what bills should be brought up for passage, what undertakings were to be financially supported, and what policies of government should be sanctioned

by legislative process was an essential part of the authority of the lower house. It gave to the leaders of that body a positive voice in all important decisions, which in very few cases the negative influence of the governor could overcome successfully.

The similarity in form of the Assembly to the House of Commons was another advantage favoring the increased authority of the popular body. Its members naturally tried to claim the same powers, rights, and privileges for the Assembly that the Commons had won throughout the centuries. The fact that the royal prerogative in England was greatly checked by the Commons merely gave the Representatives in the province an additional precedent for attempting to limit the royal predominance over the colonial government. The continued opposition of the English to such a development was, of course, the principal source of conflict between the colony, and the home country in the person of the governor.

Perhaps the greatest advantage of all that the Assembly had in its contest for supremacy in the colonial government was the control of finances. Although this principle evolved during the royal period, it was based on precedents both of the earlier colonial period and of the House of Commons in England. Control of the governor's salary was, as we have seen, quite an effective weapon in the hands of clever and determined Assemblymen. The device of specific appropriations gave the Assembly an increased point of leverage on the Governor, and was one matter in which the Assembly was quite entirely successful in checking the prerogative. A government can not be conducted without funds, and so long

as the Assembly held the purse-strings, it was in a strong position. By passing revenue laws for short periods, by the use of detailed and specific appropriation bills, by the refusal to accept amendments of money bills by the Council, by dominating the office of treasurer, and by controlling in so far as possible all money affairs rather than leaving them in the hands of the Governor and Council, the lower house could practically dictate the policies of government. The dispute over control of finances -- levying and disposing of moneys -- was, as we know, one of the principal causes of the Revolution.

In regard to the second question, despite the lack of source material of definite nature, to reach certain conclusions is possible. The similarity between the Assembly and the House of Commons is forced upon the mind in considering a number of points of procedure. In organizing for business, in taking oaths, in the methods of judging elections, in the procedure of choosing a Speaker and in presenting him to the Governor for approval, in "going up" to hear the Governor's speech ---- in all these ways the Massachusetts House of Representatives may be compared to the English House of Commons.

In the passage of bills the methods correspond closely, in certain respects, at least, to the usage of the House of Commons. Bills were usually introduced by select committees appointed by the House; they were brought in by such committees and laid on the table; they were read by the Clerk; they were subject to three readings before passage; they were sometimes voted upon by division; they were often debated upon when the second reading took place; they must be the objects of enact-

ing clauses; they were usually consented to by the Governor before both Houses at the end of the session. All these methods of procedure are strikingly similar to those of the Commons in England.

The committee system of the Assembly also resembles somewhat that of the lower House in England. It at times resolved itself into a committee of the whole House; it appointed various standing committees; and it used select committees for any purpose. In the matter of privileges, too, a resemblance exists. The Assembly definitely claimed the liberties and rights of an English assembly, going back to the reign of Henry II for precedents. In case of breach of privilege it summoned before the House the offending parties and meted out such punishments as it saw fit. In the case of an occasional expulsion of members and the causes thereof, it also followed English custom.

Since the Assembly considered itself "His Majesty's Commons", it is reasonable that it consciously turned to Parliament for precedent in matters of procedure, as is evidenced by the similarity of its usages to those of England. Moreover, it adopted the very spirit of the Commons in attempting constantly to limit the prerogative at every turn. In addition, the existence of the Journals of both Houses of Parliament in the Town House at Boston, proves that the Assembly had the authoritative sources to which to turn for the knowledge of a practice in England. The Massachusetts Assembly did not adopt in toto the usages of the House of Commons, but rather adapted to their own needs those customs which were practicable in the colonial environment.

1. The first part of the paper is devoted to a general discussion of the problem.

2. In the second part, we consider the case of a single particle.

3. The third part is devoted to the case of a system of particles.

4. In the fourth part, we discuss the results of our calculations.

5. The fifth part is devoted to a discussion of the experimental results.

6. In the sixth part, we consider the case of a system of particles.

7. The seventh part is devoted to a discussion of the results of our calculations.

8. In the eighth part, we discuss the experimental results.

9. The ninth part is devoted to a discussion of the results of our calculations.

10. In the tenth part, we consider the case of a system of particles.

11. The eleventh part is devoted to a discussion of the results of our calculations.

12. In the twelfth part, we discuss the experimental results.

13. The thirteenth part is devoted to a discussion of the results of our calculations.

14. In the fourteenth part, we consider the case of a system of particles.

15. The fifteenth part is devoted to a discussion of the results of our calculations.

16. In the sixteenth part, we discuss the experimental results.

17. The seventeenth part is devoted to a discussion of the results of our calculations.

18. In the eighteenth part, we consider the case of a system of particles.

19. The nineteenth part is devoted to a discussion of the results of our calculations.

20. In the twentieth part, we discuss the experimental results.

21. The twenty-first part is devoted to a discussion of the results of our calculations.

22. In the twenty-second part, we consider the case of a system of particles.

23. The twenty-third part is devoted to a discussion of the results of our calculations.

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